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FEDERAL REGISTER

VOLUME 25 NUMBER 34

Washington, Thursday, February 18, 1960

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CODIFICATION GUIDE

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FEDERAL REGISTER
REpublic 7-7500 Extension 3261

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Office of the Federal Register, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D.C.

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Rules and Regulations

Title 6—AGRICULTURAL CREDIT

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[C.C.C. Farm Storage Facility Loan Bulletin I, Rev. 1, Amdt. 3]

PART 474—FARM STORAGE FACILITIES

Subpart—Farm Storage Facility Loan Program

The purpose of this amendment is to amend the bulletin to establish criteria with respect to the calculation of need for additional storage and the maximum amount of loan which may be made.

Section 474.724 of the bulletin (23 F.R. 9686) setting forth the regulations governing eligible borrowers, and § 474.726 (b) (1) setting forth the terms and conditions of loans are amended to read as follows:

§ 474.724 Eligible borrowers.

Loans will be made only to eligible borrowers. An eligible borrower shall be any person who as tenant, share-landlord, or landowner-operator, (a) produces one or more of the price support commodities, corn, oats, barley, grain sorghums, wheat, rye, soybeans, flaxseed, rice, dry edible beans, peanuts and cottonseed, and (b) establishes a need for the proposed facility for the storage of such price support commodities. The term "person" shall mean an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or other legal entity, or a State, political subdivision of a State, or any agency thereof. If two or more eligible borrowers join together in the purchase and erection or construction of an eligible structure, each such eligible borrower shall sign all documents and shall be liable jointly and severally with respect to the loan. In considering the need for the facility, consideration shall be confined solely to the storage of the above designated price support commodities produced by the borrower on the particular land with respect to which the application for a loan is made and shall be calculated on the basis of the acreage of price support commodities on such land and the average yield from such acreage. Also, storage capacity to store one year's crop shall be considered sufficient for cottonseed and storage capacity to store one year's crop plus one year's carryover shall be considered sufficient for all other price support commodities.

§ 474.726 Terms and conditions of loans.

* * * * *

(b) *Amount of loan.* (1) The maximum amount loaned on any new storage facility shall not exceed the maximum amount authorized by the State committee, and in no event shall exceed: For any facility costing less than 64 cents per bushel, 80 percent of the actual out-of-pocket cost of such facility; and for any facility costing 64 cents or more per bushel, an amount equal to 80 percent of 64 cents times the bushel capacity of such facility. The cost incurred shall include the expenditures of the borrower which are necessary for the purchase, delivery, and erection of the facility, and the cost of that operating equipment which the county committee determines is necessary for the proper handling and conditioning of the price support commodity to be stored and without which the facility cannot be operated. In computing the cost incurred, the labor performed by the applicant and other labor usually employed on the farm, the cost of all equipment placed in the facility which is not necessary for its operation, and the cost of foundations for movable facilities shall be excluded. The borrower shall furnish before the loan is disbursed Form CCC 414, Certifications for a Farm Storage Facility Loan or a Mobile Dryer Loan. In addition, receipted bills in support of Form CCC 414 may also be required in the discretion of the county office prior to the disbursement of the loan.

Issued at Washington, D.C., this 15th day of February 1960.

WALTER C. BERGER,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 60-1549; Filed, Feb. 17, 1960; 8:48 a.m.]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. A]

PART 201—ADVANCES AND DISCOUNTS BY FEDERAL RESERVE BANKS

Eligibility of Merchant Marine Bonds as Security for Loans

§ 201.101 Eligibility of Merchant Marine Bonds as security for loans by Federal Reserve Banks.

(a) The question has recently been asked whether United States Government Insured Merchant Marine Bonds are eligible as security for loans by Federal Reserve Banks to member banks. The eighth paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 347), provides that "any Federal reserve bank may make advances for periods not exceeding ninety days to its member banks on their promissory notes secured by such notes, drafts, bills of exchange, or bankers' acceptances as are eligible for rediscount or for purchase by Federal reserve banks".

(b) The Board has concluded, in the light of the language of the quoted provision, its legislative history, and the language and scope of other provisions of the Federal Reserve Act, that the words "notes, drafts, bills of exchange, or bankers' acceptances" refer only to obligations arising out of commercial or agricultural transactions. Since Merchant Marine Bonds are not of this character, they are not eligible as security for advances by Federal Reserve Banks to member banks under the provisions of section 13 of the Federal Reserve Act.

(c) Merchant Marine Bonds are, of course, eligible as security for advances by Federal Reserve Banks to member banks pursuant to section 10(b) of the Federal Reserve Act (12 U.S. Code 347b), which authorizes advances to member banks on "notes having maturities of not more than four months and which are secured to the satisfaction of [the] Federal Reserve bank." However, the statute provides that the interest rate on section 10(b) advances shall be not less than one-half of one per cent "higher than the highest discount rate in effect at such Federal Reserve bank on the date of such note."

(39 Stat. 753, as amended; 47 Stat. 56, as amended; 12 U.S.C. 347, 347b)

Dated at Washington, D.C., this 10th day of February 1960.

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 60-1530; Filed, Feb. 17, 1960; 8:46 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 7009 o.]

PART 13—PROHIBITED TRADE PRACTICES

Reynolds Metals Co.

Subpart—Acquiring stock or assets of competitor: § 13.5 Acquiring stock or assets of competitor.

(Sec. 6, 38 Stat. 722; 15 U.S.C. 46. Interprets or applies sec. 7, 38 Stat. 731; 15 U.S.C. 18) [Cease and desist order, Reynolds Metals Company, Richmond, Va., docket 7009, January 21, 1960]

This proceeding was heard by a hearing examiner on the complaint of the Commission charging one of the nation's major producers of aluminum and aluminum products with violating section 7 of the Clayton Act by acquiring all the outstanding capital stock of a former customer, producer of decorative aluminum foil for the florist trade.

After trial and on the basis of an extensive record, the hearing examiner made his initial decision and order to cease and desist, from which respondent appealed. Granting the appeal in part, the Commission directed modification and on January 21, adopted the initial decision as thus modified as the decision of the Commission.

The order, as modified by the Commission, is as follows:

It is ordered, That respondent, Reynolds Metals Company, a corporation, and its officers, directors, agents, representatives, and employees, shall, within six months of the date of service of this order upon it, unless such time is extended by further order of the Commission, divest itself absolutely, in good faith, of all of its right, title, and interest in and to all stock, assets, patents, trade marks, trade names, contracts, business and good will, and all other properties, rights and privileges acquired by Reynolds Metals Company as a result of the acquisition of the Reynolds Metals Company of the capital stock of Arrow Brands, Inc., together with the new plant built after the acquisition for Arrow Brands, Inc., and so much of any other assets and properties put into the business of Arrow Brands, Inc., since the acquisition as may be necessary to restore it to at least the same relative, competitive standing it formerly had in the florist foil industry at or around the time of the acquisition.

It is further ordered, That in such divestment no property above mentioned to be divested shall be sold or transferred, directly or indirectly, to anyone who at the time of the divestiture is a stockholder, officer, director, employee, or agent of, or otherwise directly or indirectly connected with or under the control or influence of, respondent or any of respondent's subsidiaries or affiliated companies.

By "Final Order", report of compliance was required as follows:

It is further ordered, That respondent Reynolds Metals Company shall, within sixty (60) days from the date of service upon it of this order, submit in writing, for the consideration and approval of the Federal Trade Commission, its plan for compliance with this order, including the date within which compliance can be effected.

Issued: January 21, 1960.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 60–1531; Filed, Feb. 17, 1960; 8:46 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign Commerce, Department of Commerce

SUBCHAPTER B—EXPORT REGULATIONS

[9th General Rev. of Export Regs.; Amdt. 29 [1]]

PART 370—SCOPE OF EXPORT CONTROL BY DEPARTMENT OF COMMERCE

PART 371—GENERAL LICENSES

PART 372—PROVISIONS FOR INDIVIDUAL AND OTHER VALIDATED LICENSES

PART 373—LICENSING POLICIES AND RELATED SPECIAL PROVISIONS

Miscellaneous Amendments

1. Section 370.3 *Shipments to Canada for reexportation to another foreign country* is amended to read as follows:

§ 370.3 Diversion, transshipment, and reexportation from Canada.

No person may export any commodity or technical data from the United States to Canada with the knowledge or intention that the commodity or technical data are to be diverted, transshipped, or reexported from Canada, nor may such commodity or technical data be diverted, transshipped, or reexported from Canada unless:

(a) The commodity or technical data may be exported directly from the United States to the country of ultimate destination under the provisions of a general license, or

(b) The commodity or technical data are authorized for diversion, transshipment or reexportation from Canada under authority of a United States validated export license or other authorization issued by the Bureau of Foreign Commerce.

NOTE: When such an exportation to a foreign country is made in transit via Canada, the United States exporter shall submit an authenticated copy of the U.S. Shipper's Export Declaration to the Canadian customs authorities at the Canadian port of entry.

§ 371.9 [Amendment]

2. Section 371.9 *General License GIT; in-transit shipments,* paragraph (b) *Special provisions for shipments originating in Canada* is revised to read as follows:

(b) *Special provisions for shipments originating in Canada.* (1) The provisions of General License GIT are applicable, as modified herein, to all shipments from Canada, regardless of origin of the commodities included in the shipment, moving in transit through the United States to any foreign destination, including Hong Kong, Macao, and Subgroup A destinations. The Collector of Customs at the United States port of exit shall require for each shipment a copy of Canadian Customs Entry, Form B–13, certified or stamped by the Canadian customs authorities. However, the Form B–13 need not be presented if the shipment is made under a validated United States export license or any applicable United States general license, other than this General License GIT. Where the commodity description, quantity, ultimate consignee, country of ultimate destination, or any other pertinent detail of such shipment is not the same on the United States Shipper's Export Declaration as that shown on the required Canadian Customs Entry, Form B–13, a corrected Form B–13 authorizing the shipment is required; unless as indicated above, the exporter chooses instead to make the shipment under a validated United States export license or an applicable United States general license, other than this General License GIT.

(2) Any parties to the exportation shall submit any further proof which the Collector at the United States port of entry or at the port of exit may require to enable him to determine that the shipment is properly exportable under General License GIT, including the fact that the destination of the shipment is properly authorized by the Canadian authorities. An exportation shall not be cleared for shipment by the Collector at the United States port of exit under General License GIT unless all provisions of this general license have been complied with.

§ 371.21 [Amendment]

3. Section 371.21 *General License GIFT; shipments of gift parcels,* paragraph (b) *Definition* is amended to read as follows:

(b) *Definition.* The term "gift parcel" as used herein means a parcel containing commodities to be sent by an individual in the United States (the donor) free of cost to an individual or a religious, charitable, or educational organization in a foreign destination (the donee) for the use of the donee or the donee's immediate family in the case of an individual, and for use by the organization in the case of a religious, charitable, or educational organization. The payment by the donee of any handling charges or of any fees levied by the importing country (e.g. import duties, taxes, etc.) are not considered to be a cost to the donee for purposes of this definition of "gift parcel."

§ 372.4 [Amendment]

4. Section 372.4 *Applications for validated licenses,* paragraph (f) *Substantiation of representations made in license application,* subparagraphs (1) *Orders and substantiation of other material facts* and (3) *Shipments involving other than normal purchase and sale contracts* are respectively amended to read as follows:

[1] This amendment was published in Current Export Bulletin 827, dated Feb. 1, 1960, and Current Export Bulletin 828, dated Feb. 4, 1960.

(1) *Orders and substantiation of other material facts.* Except as provided in subparagraph (3) of this paragraph, or except in connection with the submission of an application for a Time Limit License or a Periodic Requirements License, no application for an export license shall be made unless and until the applicant has, supported by documentary evidence in his possession, or in the possession of the order party (as defined in paragraph (a)(2) of this section) who signs the application in accordance with the requirements of paragraph (a)(2) of this section:

(i) An order for export for the commodities covered by the application. If the applicant for the export license is not the person who conducted the direct negotiations or correspondence relative to the order with the ultimate consignee or foreign purchaser, as designated in the application for export license, and did not receive the order from the ultimate consignee or foreign purchaser, the application must be completed in accordance with paragraph (a)(2) of this section.

(ii) Substantiation of the following facts relating to the purchase transaction which the applicant must disclose on the application, Form FC–419 (Revised Jan. 1956) (see § 372.5):

(*a*) Country of ultimate destination;

(*b*) Names and addresses of the ultimate consignee, intermediate consignee (if any), purchaser (if other than ultimate consignee), and any other party to the purchase transaction, whether principal or agent, including but not limited to brokers, representatives, or other agents through whom the order was received;

(*c*) Quantity and description of the commodities to be exported;

(*d*) End use of the exportation.

* * * * *

(3) *Exceptions to order requirement.* Where, due to unusual circumstances (see examples in the Note to this subparagraph), an exporter believes that an exception to the requirement of an export order set forth in subparagraph (1) of this paragraph should be granted, the Bureau of Foreign Commerce will consider a request for such exception, provided that the transaction described in the application does not meet the requirements for filing an application for a Periodic Requirements License (PRL) or a Time Limit License (TL) as set forth in Parts 376 and 377 of this chapter, and further provided that the application is accompanied by:

(i) A "Multiple Transactions Statement by Consignee and Purchaser," Form FC–843 (whether the ultimate destination is in a Group O or a Group R country), except where the provisions of Part 373 of this chapter require that the application be accompanied by an Import Certificate, a Hong Kong Import License, a Swiss Blue Import Certificate, or a Yugoslav End-Use Certificate;

(ii) A statement explaining in full the reason or reasons for the requested exception; and

(iii) A certification that the transaction described in the application does not meet the requirements for filing an application for a Periodic Requirements License (PRL) or a Time Limit License (TL).

If such license application is approved, the license issued may include certain conditions to, or impose certain limitations on, exportations made under the license.

NOTE: The following are examples of reasons which, if fully substantiated, might warrant an exception:

1. The transaction between the applicant and the purchaser or ultimate consignee does not involve a normal purchase and sale contract in the customary form.

2. An unusual expenditure of time, money, or technical skill, in excess of ordinary sales expenses, is necessary before a bid can be submitted and an order obtained.

3. The applicant is under an unusual obligation to supply the ultimate consignee immediately with the commodities covered, because of a special trade or industry practice.

§ 373.2 [Amendment]

5. Section 373.2 *Confirmation of country of ultimate destination and verification of actual delivery,* paragraph (g) *Submission of Delivery Verification,* subparagraph (1)(ii) is amended to read as follows:

(ii) The requirement that a Delivery Verification be submitted for a particular export transaction is cancelled automatically if subsequent to the issuance of a license, (*a*) the commodity is deleted from the Positive List, or the symbol "A" in the Commodity Lists column is removed from the commodity listing on the Positive List, and (*b*) the exporter returns the original copy of Form FC–863 to the Bureau of Foreign Commerce with a statement that either the commodity has been deleted from the Positive List or that the symbol "A" for the commodity has been removed from the Positive List.

§ 373.67 [Amendment]

6. Section 373.67 *Switzerland and Liechtenstein,* paragraph (d) *Exceptions* is amended to read as follows:

(d) *Request for exception.* An applicant for an export license subject to the requirement for a Swiss Blue Import Certificate in accordance with the provisions of paragraph (a) of this section may request an exception to this requirement.

(1) *Grounds for exception.* (i) Favorable consideration of a request for exception generally will be given where the requirement for a Swiss Blue Import Certificate:

(*a*) Imposes an undue hardship on the applicant and/or ultimate consignee (e.g. the Swiss Government refuses to issue a Blue Import Certificate and such refusal constitutes discrimination against the United States exporter); or,

(*b*) Cannot be complied with (e.g. the commodities will be held in a foreign trade zone or bonded warehouse in Switzerland or Liechtenstein for subsequent distribution in one or more countries); or,

(*c*) Is not applicable to the transaction (e.g. the commodities will not be imported for consumption into Switzerland or Liechtenstein).

(ii) An exception will not be granted where such exception will be contrary to the objectives of the United States export control program.

(2) *Types of request.* A request for exception may involve either a single transaction or multiple transactions.

(i) The single transaction exception relates to a single export order and, if granted, will cover the application or applications which the exporter submits to ship the single export order.

(ii) The multiple transactions exception, if granted, will cover all applications submitted by the exporter during all or any part of the period ending not later than June 30 of the year following the year during which the request is submitted. For example, a multiple transactions request submitted on April 1, 1960, may cover all applications for shipment to the ultimate consignee filed on or before June 30, 1961, unless an earlier termination date is requested or directed. A multiple transactions request for exception will be considered by the Bureau of Foreign Commerce only where the reason necessitating the request is continuing in nature.

(3) *When to submit request.* The request for exception shall be submitted together with the application to which it relates. Where the request for exception relates to more than one application, the request shall be submitted together with the first application to which it relates.

(4) *How to submit request.* Each request for exception shall be by letter, in duplicate, addressed to the Bureau of Foreign Commerce, Department of Commerce, Washington 25, D.C. The request shall be accompanied by a statement from the ultimate consignee and purchaser in accordance with § 373.65, unless such statement is already on file in the Bureau of Foreign Commerce. As a minimum, the letter of request shall include:

(i) The type of request, i.e., whether for a single transaction or multiple transactions (see subparagraph (2) of this paragraph).

(ii) A full explanation of the reason(s) for requesting the exception.

(iii) The nature and duration of the business relationship between the applicant and the importer shown on the license application.

(iv) Whether the exporter has previously submitted to the Bureau of Foreign Commerce any Swiss Blue Import Certificate issued in the name of the importer and a listing of the Bureau of Foreign Commerce case numbers to which these certificates applied.

(v) Whether a statement from the ultimate consignee and purchaser, in accordance with § 373.65, is on file with the Bureau of Foreign Commerce.

(vi) Name and address of the ultimate consignee.

(vii) If the commodities will be exported to a foreign trade zone or bonded warehouse in Switzerland or Liechtenstein, include the location of the foreign trade zone or bonded warehouse.

(viii) Name and address of the purchaser, if different than the ultimate consignee.

(ix) If a multiple transactions exception is requested (see subparagraph (2) of this paragraph) and the exporter wishes the exception period to expire before June 30 of the next year, state the requested date of expiration.

(x) Any other facts which would justify the granting of an exception.

(5) *Action by Bureau of Foreign Commerce*—(i) *Single transaction request.* For a single transaction request the Bureau of Foreign Commerce will act on the request for exception together with the application for export license with which the request for exception was submitted. In those cases where the related application is approved, the issuance of the export license will serve also as an automatic notice to the exporter that the exception is approved. However, if any restrictions are placed on the approval, or if the request is disapproved, the Bureau of Foreign Commerce will advise the exporter by letter.

(ii) *Multiple transactions request.* Where the request involves multiple transactions, the Bureau of Foreign Commerce will advise the exporter by letter of the action taken on the request for exception. The letter will contain any conditions or restrictions which the Bureau of Foreign Commerce finds necessary as a condition to approval of the request for exception. In addition, a written acceptance of these conditions will be required from the parties to the transaction.

(6) *Submission of additional application.* On any additional application for export license which is subject to an approved request for exception to the Swiss Blue Import Certificate requirement the following certification shall be inserted on the application in the space entitled "Additional Information" or on an attachment thereto:

I (We) certify that the circumstances shown in the original request for exception to submission of a Swiss Blue Import Certificate also exist with respect to this application. The request for exception was submitted in support of application No. _____

(BFC case No. or if BFC case No. is unknown, the Applicant's reference No., date of submission of the application to which the request for exception was attached, and Schedule B Nos. and Processing Codes shown on that application)

(7) *Relationship to reexportation.* The granting of an exception to submission of a Swiss Blue Import Certificate in no way relieves the applicant or any other party to the transaction from obtaining reexportation authorization from the Bureau of Foreign Commerce when so required by the Export Regulations.

This amendment shall become effective as of February 4, 1960, except that item 5 of the amendment shall become effective as of February 1, 1960.

(Sec. 3, 63 Stat. 7; 50 U.S.C. App. 2023. E.O. 9630, 10 F.R. 12245, 3 CFR, 1945 Supp., E.O. 9919, 13 F.R. 59, 3 CFR, 1948, Supp.)

LORING K. MACY,
Director,
Bureau of Foreign Commerce.

[F.R. Doc. 60-1543; Filed, Feb. 17, 1960; 8:48 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Tolerances for Residues of Diuron

A petition was filed with the Food and Drug Administration by E. I. du Pont de Nemours and Company, Inc., Wilmington 98, Delaware, requesting the establishment of tolerances for residues of diuron (3-(3,4-dichlorophenyl)-1,1-dimethylurea) at 2 parts per million in or on corn fodder or forage (including sweet corn, field corn, popcorn) and at 1 part per million in or on corn in grain or ear form (including sweet corn, field corn, popcorn).

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which tolerances are being established.

After consideration of the data submitted in the petition and other relevant material which show that the tolerances established in this order will protect the public health, and by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and delegated to the Commissioner of Food and Drugs by the Secretary (21 CFR 120.7(g)), the regulations for tolerances for pesticide chemicals in or on raw agricultural commodities (21 CFR, 1958 Supp., 120.106 (24 F.R. 8374)) are amended by changing § 120.106 to read as follows:

§ 120.106 Tolerances for residues of diuron.

Tolerances for residues of diuron (3-(3,4-dichlorophenyl)-1,1-dimethylurea) in or on raw agricultural commodities are established as follows:

(a) 2 parts per million in or on alfalfa, bird's-foot trefoil (hay, forage), corn fodder or forage (including sweet corn, field corn, popcorn), grass crops (grass hay), wheat hay, wheat forage, wheat straw.

(b) 1 part per million in or on corn in grain or ear form (including sweet corn, field corn, popcorn), cottonseed, grapes, pineapple, potatoes, sugarcane, wheat grain.

Any person who will be adversely affected by the foregoing order may, at any time prior to the thirtieth day from the effective date thereof, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington 25, D.C., written objections thereto. Objections shall show wherein the person filing will be adversely affected by this order, specify with particularity the provisions of the order deemed objectionable and reasonable grounds for the objections, and request a public hearing upon the objections. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in quintuplicate.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: February 10, 1960.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F.R. Doc. 60-1539; Filed, Feb. 17, 1960; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter III—Federal Aviation Agency

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket No. 59-KC-23]

[Amdt. 210]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

[Amdt. 240]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

Revocation of Federal Airway, Associated Control Areas and Designated Reporting Points

On October 7, 1959, a notice of proposed rule-making was published in the FEDERAL REGISTER (24 F.R. 8118) stating that the Federal Aviation Agency was proposing to revoke Blue Federal airway No. 85 which extends from Hutchinson, Kans., to Wichita, Kans., together with its associated control areas and designated reporting points.

No comments were received regarding the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

Pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reasons stated in the notice, the proposed amendments are hereby adopted without change and set forth below:

1. Section 600.685 *Blue Federal airway No. 85 (Hutchinson, Kans., to Wichita, Kans.)* is revoked.

2. Section 601.685 *Blue Federal airway No. 85 control areas (Hutchinson, Kans., to Wichita, Kans.)* is revoked.

3. Section 601.4685 *Blue Federal airway No. 85 (Hutchinson, Kans., to Wichita, Kans.)* is revoked.

These amendments shall become effective 0001 e.s.t. April 7, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on February 12, 1960.

GEORGE S. CASSADY,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-1529; Filed, Feb. 17, 1960; 8:46 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Chapter II—Federal Housing Administration, Housing and Home Finance Agency

MISCELLANEOUS AMENDMENTS TO CHAPTER

The following miscellaneous amendments have been made to this chapter:

SUBCHAPTER C—MUTUAL MORTGAGE INSURANCE AND SERVICEMEN'S MORTGAGE INSURANCE

PART 221—MUTUAL MORTGAGE INSURANCE; ELIGIBILITY REQUIREMENTS OF MORTGAGE COVERING ONE- TO FOUR-FAMILY DWELLINGS

In § 221.17 the introductory text of paragraph (b)(2) is amended, subdivision (i) thereof is revoked, and subdivisions (ii) and (iii) thereof are amended as follows:

§ 221.17 Maximum mortgage amounts.

* * * * *

(b) * * *

(2) The full amount computed under paragraph (a) of this section if the mortgage covers a one- or two-family residence and the Commissioner is furnished with certificates indicating that:

(i) [Revoked]

(ii) The mortgagor will not rent (except for a rental term of not less than 30 days and not more than 60 days), sell (except where the insured mortgage is paid in full as an incident of the sale), or occupy the property prior to the 18th amortization payment of the mortgage except with the prior written approval of the Commissioner;

(iii) Not less than 15 percent of the original principal amount of the mortgage proceeds has been deposited in an escrow, trust, or special account;

PART 222—MUTUAL MORTGAGE INSURANCE; RIGHTS AND OBLIGATIONS OF MORTGAGEE UNDER THE INSURANCE CONTRACT

In § 222.3 paragraph (c) is amended by adding a new subparagraph (6) as follows:

§ 222.3 Adjusted insurance premiums and termination charge.

* * * * *

(c) * * *

(6) Where the final maturity specified in the mortgage is accelerated solely by reason of application of funds applied on the indebtedness as provided for in § 221.17(b)(2)(iv) of this subchapter.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply sec. 203, 52 Stat. 10, as amended; 12 U.S.C. 1709)

SUBCHAPTER F—URBAN RENEWAL AND NEIGHBORHOOD CONSERVATION HOUSING INSURANCE

PART 261—URBAN RENEWAL INSURANCE; ELIGIBILITY REQUIREMENTS OF MORTGAGE COVERING ONE- TO ELEVEN-FAMILY DWELLINGS

In § 261.7 the introductory text of paragraph (b)(2) is amended, subdivision (i) thereof is revoked, and subdivisions (ii) and (iii) thereof are amended as follows:

§ 261.7 Maximum mortgage amounts—loan-to-value limitation.

* * * * *

(b) * * *

(2) The full amount computed under paragraph (a) of this section if the mortgage covers a one- or two-family residence and the Commissioner is furnished with certificates indicating that:

(i) [Revoked]

(ii) The mortgagor will not rent (except for a rental term of not less than 30 days and not more than 60 days), sell (except where the insured mortgage is paid in full as an incident of the sale), or occupy the property prior to the 18th amortization payment of the mortgage except with the prior written approval of the Commissioner;

(iii) Not less than 15 percent of the original principal amount of the mortgage proceeds has been deposited in an escrow, trust, or special account;

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 220, 68 Stat. 596, as amended; 12 U.S.C. 1715k)

Issued at Washington, D.C., February 12, 1960.

JULIAN H. ZIMMERMAN,
Federal Housing Commissioner.

[F.R. Doc. 60-1542; Filed, Feb. 17, 1960; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Coast Guard

[33 CFR Parts 80, 84, 90, 95, 144]

[46 CFR Parts 2, 12, 25, 30, 32–36, 38, 39, 55, 57, 70, 74–76, 78, 90, 94, 95, 97, 98, 110–113, 146, 157, 160, 162, 167, 175–183]

[CGFR 59–60]

NAVIGATION AND VESSEL INSPECTION REGULATIONS

Public Hearing on Proposed Changes

1. The Merchant Marine Council will hold a Public Hearing on Monday, April 4, 1960, commencing at 9:30 a.m., in the Departmental Auditorium between 12th and 14th Streets on Constitution Avenue NW., Washington, D.C., for the purpose of receiving comments, views, and data on the proposed changes in the regulations with respect to navigation and vessel inspection, as set forth in Items I to XII, inclusive, in the Merchant Marine Council Public Hearing Agenda (CG–249), dated April 4, 1960. This Agenda contains the changes proposed, and for certain items the present and proposed regulations are set forth in comparison form, together with the reasons for the changes where necessary.

2. This document contains a general description of the proposed changes in the navigation and vessel inspection regulations, together with the statutory authorities for making such changes. The complete description of the proposed changes are set forth in a separate pamphlet entitled "Merchant Marine Council Public Hearing Agenda" (CG–249) dated April 4, 1960. Copies of this pamphlet Agenda are mailed to persons and organizations who have expressed a continued interest in the subjects under consideration and have requested that copies be furnished them. Copies of the Agenda will be furnished, upon request to the Commandant (CMC), United States Coast Guard, Washington 25, D.C., so long as they are available. After the supply of extra copies is exhausted, copies will be available for reading purposes only in Room 4104, Coast Guard Headquarters, or at the offices of the various Coast Guard District Commanders.

3. Comments on the proposed regulations are invited. If it is believed a comment, view, or suggestion clarifies or improves a proposed regulation or amendment, it is changed accordingly and, after adoption by the Commandant, the revised regulation is published in the FEDERAL REGISTER. Each person who desires to submit written comments, data or views in connection with the proposed regulations set forth in the Agenda should submit them so that they will be received prior to April 1, 1960, by the Commandant (CMC), U.S. Coast Guard Headquarters, Washington 25, D.C. Comments, data or views may be presented orally or in writing at the Public Hearing before the Merchant Marine Council on April 4, 1960. In order to insure consideration of comments and facilitate checking and recording, it is essential that each comment be submitted on a separate Form CG–3287, showing the section number (if any), the proposed change, the reason or basis, and the name, business firm or organization (if any), and the address of the submitter. A small quantity of Form CG–3287 is attached to each copy of the pamphlet Agenda. Additional copies of this form may be obtained upon request from the Commandant (CMC) or from any Coast Guard District Commander, or it may be reproduced by typewriter or otherwise.

4. Each item in the Agenda has been given a general title, intended to encompass the specific proposals presented. It is urged that each item be read completely because the application of proposals to specific employment or types of vessels may be found in more than one item. For example, Item VI contains proposals applicable only to tank vessels, yet Items III and IX also contain proposals affecting tank vessels.

ITEM I—MANNING OF RADAR EQUIPPED VESSELS

RADAR OBSERVERS REQUIRED

5. It is believed that all deck officers aboard every radar equipped vessel should be able to properly interpret and utilize the information presented to them by the radar equipment. In consonance with such belief and as a step towards insuring that end for the manning of such inspected vessels, it is proposed to add a new regulation designated 46 CFR 157.20–32 to the "Manning Regulations." This proposal will require the deck officers on radar equipped vessels of 300 gross tons and over certificated by the Coast Guard for navigation on ocean, coastwise, or Great Lakes' waters to be qualified "radar observers." It is proposed to require this at the time the vessel is inspected after January 1, 1961. The qualifications for "radar observer" are in 46 CFR 10.05–46 in the "Rules and Regulations for Licensing and Certificate of Merchant Marine Personnel." However, this proposal does not apply to persons temporarily employed in the service of a vessel, such as state or federal boarding pilots.

6. The authority to prescribe regulations requiring radar observers on radar equipped vessels is in R.S. 4405, as amended, and 4462, as amended (46 U.S.C. 375, 416). The proposal interprets or applies R.S. 4417a, as amended, 4453, as amended, 4463, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 3, 54 Stat. 347, as amended, and sec. 3, 68 Stat. 675 (46 U.S.C. 391a, 435; 222, 367, 1333, 50 U.S.C. 198).

ITEM II—INFLATABLE LIFE RAFTS

USE OF INFLATABLE LIFE RAFTS

7. A specification for the guidance of manufacturers in building inflatable life rafts which may be approved by the Coast Guard for use on merchant vessels was considered as Item I on the April 27, 1959, Merchant Marine Council Public Hearing Agenda (CG–249). This specification, as approved, was published in the FEDERAL REGISTER of July 9, 1959 (24 F.R. 5545), and designated as a new "Subpart 160.051—Inflatable Life Rafts," in Subchapter Q—Specifications, in 46 CFR Chapter I. Several manufacturers are now in the process of obtaining approval for specific inflatable life rafts. It is anticipated that such approved rafts will be available in early 1960.

8. The use of inflatable life rafts as primary lifesaving equipment has been successful in the United States Navy and Coast Guard. The British Government and other countries have allowed their use on certain commercial vessels with considerable success. The United States proposals for changing the International Convention for the Safety of Life at Sea, 1948, will permit the substitution of inflatable life rafts for life floats, buoyant apparatus, and other types of life rafts, and specifies when and the extent to which such rafts may be substituted for lifeboats. The 1948 Convention presently prohibits the use of inflatable life rafts as any part of the lifesaving equipment required to be carried by vessels subject to the Convention. However, the use of approved inflatable life rafts as excess equipment on board all types of vessels will be permitted under present law and regulations.

9. Pursuant to the authority and discretion set forth in 46 CFR 90.15–1, 70.15–1, and 30.15–1, it is proposed to authorize the use of inflatable life rafts as approved equivalents. For vessels on international voyages and subject to the 1948 Convention, the inflatable life rafts shall not be substituted for lifeboats, life rafts, life floats or buoyant apparatus required by that Convention on these vessels, and the following proposals do not apply to such vessels. The following proposals apply only to vessels not subject to this Convention:

a. Inflatable life rafts shall be permitted as substitutes for other types of life rafts, life floats, and buoyant apparatus, wherever they may be required on board all types of vessels.

b. Inflatable life rafts shall be permitted as lifesaving equipment on tank barges (all waters and tonnages) and seagoing barges of 100 gross tons and over in lieu of lifeboats.

c. For vessels of less than 3,000 gross tons the substitution of inflatable life rafts on lifeboats shall be along the following lines:

i. All vessels under 100 gross tons—Inflatable life rafts for all of the required

lifeboat capacity. Inflatable life rafts are now permitted for small passenger vessels under P.L. 519, 84th Congress, and 46 CFR Parts 175–187 (Subchapter T).

ii. All vessels from 100 to 500 gross tons—One boat, and the balance of required lifeboat capacity in inflatable life rafts.

iii. All passenger vessels and nautical school ships of 500 to 1,600 gross tons—Two boats (one on each side) and the balance of all required lifeboat capacity in inflatable life rafts.

iv. All cargo or miscellaneous vessels and tank vessels of 500 to 1,600 gross tons—One boat and the balance of required lifeboat capacity in inflatable life rafts.

v. All vessels of 1,600 to 3,000 gross tons—Two lifeboats (one on each side) and the balance of required lifeboat capacity in inflatable life rafts.

10. Views, comments, and data both for and against these proposals regarding use of inflatable life rafts are solicited. In addition, expressions are desired with respect to whether or not it is desirable to permit substitution of inflatable life rafts for lifeboats on vessels of 3,000 gross tons and above. If so, it is desired to have expressions regarding types of vessels on which it may or not be made. After consideration of comments, views, and data, it is anticipated that regulations will state the conditions and extent to which the use of approved inflatable life rafts as approved equivalents of lifesaving equipment will be permitted on all vessels subject to Coast Guard inspection. To accomplish this, regulations may be published as 46 CFR 2.05, 33.70, 75.70, 94.70, and 167.37.

FIRST-AID KITS FOR INFLATABLE LIFE RAFTS

11. It is proposed to add a new specification designated 46 CFR Subpart 160.054, consisting of §§ 160.054–1 through 160.054–7, under the title "Kits, First-Aid, For Inflatable Life Rafts," which will be "Subchapter Q—Specifications." The proposed container utilizes re-sealable plastic rather than metal, which will pack more easily and will minimize the damage to the raft during launching or use. When compared with the specification for first-aid kit for lifeboats (46 CFR Subpart 160.041), the proposal substitutes a re-sealable plastic container for the rigid metal box, and the number of unit cartons in the kit are reduced from 24 to 12.

12. The authority to prescribe regulations with respect to inflatable life rafts and equipment therefor is in R.S. 4488, as amended, 4491, as amended (46 U.S.C. 481, 489), and sec. 3, Act of May 10, 1956 (70 Stat. 152; 46 U.S.C. 390b).

ITEM III—LIFE PRESERVERS AND OTHER LIFESAVING EQUIPMENT

PROHIBITING THE USE OF CERTAIN PREVIOUSLY APPROVED LIFE PRESERVERS

13. It is proposed to remove from service aboard inspected vessels all kapok and fibrous glass life preservers in which the buoyant material is not contained in protective inner bags of plastic film. It is also proposed to limit the acceptability of kapok and fibrous glass life preservers and buoyant cushions in which the buoyant material is not contained in protective inner bags of plastic film by not counting them as approved equipment when determining the quantity of approved lifesaving equipment required to be carried on uninspected motorboats or uninspected vessels. This action is based on tests using sample jackets of known vintage which were removed from service aboard merchant vessels. It has been found that drastic buoyancy losses may be expected in those life preservers which do not have protective covering of vinyl plastic over the buoyant material, especially if the life preservers are used in water covered by a gasoline or light oil film. The proposed regulations will allow approximately one year for compliance by Coast Guard inspected vessels and approximately three years for uninspected motorboats and other uninspected vessels. To accomplish this it is proposed to appropriately revise 46 CFR 25.25–5, 33.35–15, 75.40–5, 94.40–5, 167.35–1, and 180.25–1 in the Vessel Inspection Regulations. It is also proposed to revise 33 CFR 144.01–20 and 144.10–1 which deal with life preservers on artificial islands or fixed structures on the outer Continental Shelf.

UNICELLULAR PLASTIC FOAM LIFE PRESERVER SPECIFICATION

14. It is proposed to establish a new specification for a unicellular plastic foam life preserver for use on merchant vessels and motorboats which will be designated 46 CFR Subpart 160.055, and consists of §§ 160.055–1 to 160.055–9, inclusive. This life preserver is intended to be an alternate type to those presently permitted. The proposed amendments to 46 CFR 25.25–5, 33.35–15, 75.40–5, 94.40–5, 167.35–1, and 180.25–1 will refer to this new specification subpart.

LIFESAVING EQUIPMENT FOR GREAT LAKES VESSELS AND FOR FREIGHT MOTORBOATS

15. Following several casualties on Great Lakes vessels, petitions and recommendations were received regarding requirements for lifesaving equipment required to be carried on vessels in Great Lakes service. It is proposed to amend all inspection regulations so as to require that all Great Lakes vessels shall more nearly meet the same requirements which are now applicable to vessels in the ocean and coastwise service. Regarding mechanical disengaging apparatus for lifeboats and capacity of lifeboats and life rafts required, it is proposed to revise 46 CFR 94.10–1, 94.10–5, and 94.10–90 (cargo and miscellaneous vessels); 75.10–1, 75.10–5, 75.10–20, and 75.10–90 (passenger vessels); and 33.10–15 and 33.10–20 (tank vessels). Regarding life rafts and life raft stowage, it is proposed to revise 46 CFR 94.10–40 to require an additional life raft and to specify life raft stowage arrangements on Great Lakes' cargo and towing vessels of over 300 gross tons so as to require one life raft be stowed forward and one aft. Regarding various items of required lifeboat equipment, it is proposed to revise 94.20–10, 75.20–10, 33.15–5, and 33.15–20 to increase requirements with respect to flashlights, painters, and distress signals. Regarding lifeboat painters it is proposed to revise 94.20–15, 75.20–15, and 33.15–10 to show that line equivalent to manila rope of 2¾ inches in circumference may be used. Regarding life raft equipment it is proposed to revise 94.20–20, and 75.20–20 by changing certain items for life rafts carried on Great Lakes' vessels. Regarding number of lifelines fitted to davits, it is proposed to revise 94.25–10, 94.25–15, 75.25–10, 75.25–15, and 33.20–1 by adding a requirement that davits be fitted with a span wire and a lifeline for each boat thwart. Regarding embarkation-debarkation ladders and pilot ladders, it is proposed to revise 46 CFR 94.50–5, 75.50–5, and 33.20–1 by adding a requirement for Great Lakes' vessels which is in line with present requirements for ocean and coastwise vessels. It is also proposed to editorially revise 46 CFR 75.10–20 by referring to radiotelegraph or radiotelephone instead of wireless telegraphy, and to clarify percentage aggregate capacity of lifeboats and life rafts required on certain passenger vessels.

16. It is proposed to increase the number of required life preservers for Great Lakes' cargo vessels of over 3,000 gross tons in which the forward berthing and working spaces are widely separated from the messing and recreational spaces aft to the extent that an additional number of life preservers, sufficient for 50 percent of all persons on board, shall be carried in addition to the present 100 percent now required. A serious casualty occurring at a time when the majority of crew members are aft could under present requirements result in some persons not having life preservers readily available for them. To accomplish this it is proposed to revise 46 CFR 94.40–10 and 94.40–15.

17. In order to provide suitable lifesaving equipment for motorboats carrying freight for hire, since the amendment to R.S. 4426, as amended (46 U.S.C. 404), by the Act of May 10, 1956 (P.L. 84–519; 46 U.S.C. 390–390g), permits these motorboats to carry up to 6 passengers without meeting requirements for passenger motorboats, it is proposed to amend 46 CFR 94.01–1 and 94.10–1 to provide for the Officer in Charge, Marine Inspection, to require necessary primary lifesaving equipment.

RING LIFE BUOYS; ARRANGEMENT AND STOWAGE

18. In lieu of requiring the ring life buoys with water lights attached to have secured to them 15 fathoms of line when carried on tank vessels, or cargo and miscellaneous vessels, it is proposed to amend 46 CFR 33.40–5 (tank vessels) and 94.43–10 (cargo and miscellaneous vessels) so as to permit the water light and the 15 fathoms of line to be attached to different ring life buoys on each side of such vessels. This practice is now permitted on passenger vessels. The purpose for having a line attached to a ring life buoy is to be able to throw the buoy to a person in the water who can grab it and be pulled into a boat.

KAPOK OR FIBROUS GLASS BUOYANT VESTS

19. It is proposed to change the design of the standard type kapok and fibrous glass buoyant vests for use on motorboats of Class A, 1, or 2 not carrying passengers for hire. The "Proposed Amendment No. 2 to Specification Subpart 160.047 for Buoyant Vests, Kapok or Fibrous Glass, Adult and Child, for Motorboats," together with the applicable plans, were forwarded by letters dated December 15, 1959, to current manufacturers of approved buoyant vests. This letter set forth the actions proposed to be taken with respect to buoyant vests, and the major changes proposed for the specification in 46 CFR Subpart 160.047, consisting of §§ 160.047–1 to 160.047–9, inclusive, which are to discontinue the design of the present standard Models AK, AF, CKM, CFM, CKS, and CFS vests; to change design of present standard models to a "horse-collar" design having better performance characteristics in the water; to designate the new models as standard Models AK–1, AF–1, CKM–1, CFM–1, CKS–1, and CFS–1; to add general requirements for non-standard type vests; and to authorize approvals of non-standard type vests determined by the Coast Guard to be equivalent to the standard type in materials, construction, and performance. In addition, the Coast Guard announced in this letter that interim approvals for the new "horse-collar" type vests would be issued subject to formal adoption of this revision to the specification following the Public Hearing. This announcement and the issuance of interim approvals for the new designs were made for the purpose of making these new vests with improved performance characteristics available to the public for the 1960 boating season, and were made as early in the season as possible. Numerous comments were received from manufacturers and others regarding the timing of this announcement. The Coast Guard in a letter dated January 25, 1960, to all manufacturers of buoyant vests and other interested parties replied in part: "This action was considered to be in the best interest of the public. A delay in the issuance of approvals for 60 or 90 days from today, or until July 1960, or even later, as requested by certain members of the life preserver industry, would in effect mean that very few, if any, vests of this new and improved design would be available to the consumer until the 1961 season. After weighing all the facts available to us and carefully considering all comments received from the industry, it is the opinion of the Coast Guard that our original action in this matter was in the best interest of public safety. Therefore, no change in the Coast Guard's position or in the instructions to manufacturers contained in our letter of December 15, 1959, is contemplated, and we will continue to issue interim approvals for the new vests as they are submitted."

MANUFACTURERS' APPROVAL OF PRESENT KAPOK OR FIBROUS GLASS BUOYANT VESTS TO BE TERMINATED

20. By the adoption of the proposed revision of the specification designated 46 CFR Subpart 160.047, as described in paragraph 19 above, it will be necessary to terminate all outstanding manufacturers' approval for Models AK, CKM, CKS, AF, CFM, and CFS kapok and fibrous glass buoyant vests, which are used on motorboats of Class A, 1, or 2 when not carrying passengers for hire. The date of proposed termination will be the same date that the proposed revised specification designated 46 CFR Subpart 160.047 becomes effective. This termination of approvals becomes necessary because Models AK, CKM, CKS, AF, CFM, and CFS kapok and fibrous glass buoyant vests will no longer be in compliance with Coast Guard requirements. However, all standard buoyant vests manufactured prior to the effective date of the proposed changes in 46 CFR Subpart 160.047 will be permitted to be placed in service on board these motorboats and may be continued in service so long as such vests are in good and serviceable condition.

21. The authority to prescribe regulations with respect to life preservers and lifesaving equipment is in R.S. 4405, as amended, and 4462, as amended (46 U.S.C. 375, 416). These proposals interpret or apply R.S. 4417a, as amended, 4426, as amended, 4488, as amended, 4491, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 3, 54 Stat. 347, as amended, sec. 3, 70 Stat. 152, and sec. 3, 68 Stat. 675 (46 U.S.C. 391a, 404, 481, 489, 367, 1333, 390b, 50 U.S.C. 198) and Executive Order 10402 (17 F.R. 9917, 3 CFR 1952 Supp.).

ITEM IV—RULES OF THE ROAD

LIGHTS FOR DUMP SCOWS

22. With respect to lights for dump scows it is proposed to amend 33 CFR 80.17(i) of the "Rules of the Road—Inland" which will remove the requirement to carry the sidelights at a specific height. In lieu thereof it is proposed to require that such sidelights be carried "at a height at which they can readily be seen."

23. The authority to prescribe regulations with respect to lights for dump scows is in sec. 2, 30 Stat. 102, as amended (33 U.S.C. 157).

CLOSE-UP AND INTERMEDIATE TOWING

24. The lights required for barges towed close-up differ from the lights required by barges towed with an intermediate hawser. It is proposed to define what is meant by "close-up" and "intermediate towing" as used in the "Rules of the Road—Inland" and "Rules of the Road—Western Rivers." To accomplish this it is proposed to add requirements by amending 33 CFR 84.2 and by adding a new regulation designated 33 CFR 95.38.

25. The authority to prescribe requirements with respect to lengths of hawsers for all tows is in R.S. 4233A, as amended, sec. 2, 30 Stat. 102, as amended, and sec. 14, 35 Stat. 428, as amended (33 U.S.C. 353, 157, 152).

DISTRESS SIGNAL FOR SMALL VESSELS

26. Too often small boats in distress are ignored because the occupants were thought to be waving a greeting. In order to provide a recognized distress signal for operators of small vessels, it is proposed to add a special distress signal, consisting of "slowly and repeatedly raising and lowering arms outstretched to each side," to the recognized distress signals now set forth in the various "Rules of the Road" in 33 CFR 80.37 (Inland), 90.15 (Great Lakes) and 95.39 (Western Rivers). It is felt that a specific signal of this nature will also assist Coast Guard search and rescue operations.

27. The authority to prescribe regulations regarding distress signals is in R.S. 4233A, as amended, sec. 3, 28 Stat. 649, as amended, and sec. 2, 30 Stat. 102, as amended (33 U.S.C. 353, 243, 157).

WARNING SIGNALS FOR VESSELS LOADING OR UNLOADING DANGEROUS CARGOES IN BULK

28. It is proposed to require vessels when transferring certain dangerous cargoes in bulk, such as elemental phosphorus in water, sulfuric acid, hydrochloric acid, liquid chlorine, or anhydrous ammonia, to display (day or night) an appropriate red warning signal which will be visible on all sides. During transfer operations while fast to a dock, there shall be displayed on the vessel a red signal consisting of a red flag by day or a red electric lantern by night. During transfer operations while at anchor, there shall be displayed a red signal consisting of a red flag by day or night. To require this signal to be displayed, it is proposed to amend 46 CFR 98.05–50, 98.10–45, 98.15–45, 98.20–70, and 98.25–90 in the vessel inspection regulations for cargo and miscellaneous vessels.

29. In order that others will recognize this signal when displayed and will be required to exercise caution while navigating in the vicinity of vessels engaged in transferring dangerous cargoes in bulk, it is proposed to add requirements to the various "Rules of the Road." These proposals describe the signal and will require every vessel when in the vicinity of another vessel displaying this warning signal to navigate with caution. Due to the hazardous materials being transferred, cautious navigation is essential. To accomplish this, it is proposed to add new regulations designated 33 CFR 80.37 (Inland), 90.25 (Great Lakes) and 95.67 (Western Rivers).

30. The authority to require vessels to display a recognized signal when loading or unloading certain dangerous cargoes is in R.S. 4405, as amended, 4462, as amended, 4472, as amended (46 U.S.C. 375, 416, 170). These regulations also interpret or apply sec. 3, 68 Stat. 675 (50 U.S.C. 198) and Executive Order 10402 (17 F.R. 9917, 3 CFR 1952 Supp.). The requirements added to the various "Rules of the Road" which govern other vessels and require them to navigate with caution when in the vicinity of a vessel displaying a warning signal is in R.S. 4233A, as amended, sec. 3, 28 Stat. 649, and sec. 2, 30 Stat. 102, as amended (33 U.S.C. 353, 243, 157).

ITEM V—SPECIFIC PROPOSALS REGARDING SMALL PASSENGER VESSELS

31. The amendments to regulations being proposed in this item are confined

to the regulations in Subchapter T in 46 CFR, Chapter I, and in "Rules and Regulations for Small Passenger Vessels" (CG-323). The purpose of these proposed amendments is to permit on both new construction and existing vessels certain of the simplified procedures and modified requirements which were adopted and used in the inspection of over 3,800 existing vessels brought under inspection for the first time by Public Law 519, 84th Congress. The procedures were developed and have proved satisfactory in the inspection of the more than 3,800 small passenger vessels with no compromise with safety. It is on the basis of this experience that it is proposed to pass along to the small passenger boat industry the simplified procedures, the modifications in some requirements, the acceptance of alternate procedures, and the like, which it is believed will prove beneficial and in some cases materially reduce the costs involved. Certain procedures are presently being permitted in connection with new construction under a broad interpretation of existing regulations.

32. The proposed changes are primarily concerned with (a) a modification of the requirements for plan submission and approval to permit fewer plans or other information in their stead; (b) subdivision and stability standards and calculations to permit the use of simplified and less costly procedures; (c) the inclusion of standards for electrical systems operating at potentials of 50 volts or more to relieve builders, owners, and others from the need for reference to and determination of the applicable provisions contained in more complex and technical regulations; (d) clarification of the status of small vessels carrying freight for hire as well as passengers; and (e) the clarification and certain modification with respect to the requirements for lifesaving equipment and machinery installation.

33. After the public hearing and the adoption of these proposed regulations in final form, it is anticipated that it will be necessary in the interest of simplification and clarification of these regulations for small passenger vessels to rearrange the existing and newly adopted regulations. This will probably require a change in section and paragraph numbering for all the regulations in 46 CFR Parts 175 to 186, inclusive. In addition to this rearrangement and change in numbers, revisions may be made to accomplish amplification and clarification of certain existing regulations, to include additional informative material not containing substantive requirements. Consideration is being given to obtaining as an end result the inclusion in one publication (subchapter) all of the Coast Guard regulations applicable to the greater majority of small passenger vessels required to be inspected. These regulations would apply to all vessels now under inspection and to those that will be constructed or otherwise brought under inspection for the first time in the future.

VESSELS CARRYING FREIGHT FOR HIRE

34. It is proposed to amend 46 CFR 175.05-1 and 176.01-1 by adding requirements which will authorize one Certificate of Inspection for small passenger vessels of above 15 gross tons which may carry more than six passengers and may carry freight for hire. Such vessels are subject to inspection under R.S. 4426, as amended (46 U.S.C. 404), and the regulations in 46 CFR Subchapter I—Cargo and Miscellaneous Vessels, as well as to inspection under the Act of May 10, 1956 (46 U.S.C. 390b), and the regulations in 46 CFR Subchapter T—Small Passenger Vessels. This proposal will require the Officer in Charge, Marine Inspection, to determine and state what additional requirements govern when such vessel is carrying freight for hire. These requirements will depend upon the nature of the cargo and the arrangement, equipment and operation of the specific vessel. In effect, this proposal will require such a vessel, once certificated, must be operated in accordance with its Certificate of Inspection when carrying passengers, cargo for hire, or a combination of the two.

SUBMISSION AND APPROVAL OF PLANS

35. It is proposed to revise 46 CFR 176.10-10, to delete § 176.40-1, and to insert a new § 176.10-13. This proposal will permit fewer plans to be submitted, as well as permit local approval of plans by the Officer in Charge, Marine Inspection. Those few vessels which carry more than 150 passengers, or those vessels which are novel in design or construction, will continue to be required to submit plans for the purpose of determining subdivision and stability.

WATERTIGHT INTEGRITY AND SUBDIVISION

36. It is proposed to revise 46 CFR Part 178 in its entirety. Although all of Part 178 is presented, it does not mean that all requirements concerning watertight integrity and subdivision are to be changed. The primary purpose for this proposed revision is to provide a simplified method for determining whether a vessel is in compliance with its subdivision requirements, as well as to modify certain of the existing subdivision requirements. This new method for determining subdivision is based on experience gained from the inspection of existing small passenger vessels. By the use of this new method the subdivision requirements of most vessels can be determined by the average owner or builder with the assistance of a Coast Guard inspector. It is not intended that these proposals cause any additional or increased requirements on any vessel which has been already approved and certificated by the Coast Guard unless such vessel's scope of operation is changed or unless the vessel undergoes major structural alterations. For those few vessels carrying more than 150 passengers, however, the method of determining subdivision requirements has not been changed, and requirements for them are by reference to regulations in Subchapter H (Passenger Vessels) in 46 CFR Chapter I. In this revision the requirements in 46 CFR 177.30-1 to 177.30-10 regarding hatches, and the requirements in 46 CFR 182.25-1 and 182.25-5, regarding overboard discharges and shell connections, are also to be revised and transferred to 46 CFR Part 178.

STABILITY

37. With respect to stability, it is proposed to revise 46 CFR Part 179 in its entirety. This proposal sets forth a simple method for determining the stability of small passenger vessels which carry not more than 150 passengers. Vessels which have already satisfactorily passed a stability test will not be affected by these proposals unless they are altered to change their stability or unless their scope of operation is changed. This simplified method is similar to that used to determine stability on existing small passenger vessels which were brought under inspection for the first time by the Act of May 10, 1956. No special plans normally will be required. The services of a naval architect will not be required in most cases. Ferry vessels will no longer be required to have a stability test unless they carry more than 49 passengers or unless their stability is questioned by the Officer in Charge, Marine Inspection. Those vessels which carry more than 150 passengers will still be required to undergo a conventional stability test as before.

LIFESAVING EQUIPMENT

38. It is proposed to amend 46 CFR 180.10-5 so that vessels operating in ocean service, but within 20 miles of a harbor of safe refuge, will be required to carry 50 percent capacity for all persons on board in life floats or buoyant apparatus in lieu of the 100 percent life floats now required. It is also proposed to permit ocean vessels to operate without primary lifesaving apparatus when such operation is always within one mile of land. It is proposed to add a requirement to 46 CFR 180.10-10 which will permit operation of vessels in coastwise waters without primary lifesaving apparatus when such operation is always within one mile of land.

MACHINERY INSTALLATIONS

39. It is proposed to revise 46 CFR 182.01-20 to permit use of small, low pressure, unfired pressure vessels if they are manufactured in accordance with a recognized code, such as American Society of Mechanical Engineers, American Petroleum Institute, United States Navy, American Bureau of Shipping, Lloyd's Register of Shipping, Interstate Commerce Commission, etc. With respect to fuel tanks it is proposed to revise 46 CFR 182.10-20 and 182.15-15 to include the minimum material thickness requirements for tanks above 150 gallons capacity. Regarding the vent pipes for fuel tanks, it is proposed to revise 46 CFR 182.10-30 and 182.15-25 by adding requirements to provide for a fuel tank vent line installation which will prevent contamination of fuel. It is proposed to revise 46 CFR 182.15-5 and 182.15-35, regarding propulsion machinery, to permit the installation of air-cooled propulsion engines under deck, as well as to standardize the ventilation requirements for such installations.

ELECTRICAL INSTALLATIONS OPERATING AT POTENTIALS OF 50 VOLTS OR MORE

40. It is proposed to revise 46 CFR Part 183 to provide specifically for those installations operating at potentials of 50 volts or more. It is proposed to amend 46 CFR 183.01–1, 183.01–5, 183.01–10, 183.05–1, 183.05–5, and 183.10–10, as well as to add §§ 183.10–17 and 183.25–1 to 183.25–50, inclusive. This proposal in effect transfers current requirements from 46 CFR Parts 110–113, inclusive (Subchapter J—Electrical Engineering) to 46 CFR Part 183. It is not intended that these proposals cause any additional or increased requirements on any vessel which has been already fully approved and certificated by the Coast Guard unless the vessel's electrical system is subjected to a major alteration or replacement. The proopsals to be added to 46 CFR Part 183 are considered to be those applicable requirements in Subchapter J—Electrical Engineering which should be made standard for small passenger vessels. Because of the limited number of vessels involved, the regulations for those electrical installations vital to the safe navigation of the vessel have not been transferred from Subchapter J—Electrical Engineering and will still be applicable by appropriate references. The electrical installation requirements not transferred are electrical steering apparatus, electrical propulsion machinery, etc., which are not normally installed on small passenger vessels. In addition, it is proposed to revise 46 CFR 183.05–1, 183.05–5, and 183.10–10 to require permanent type battery connections and to prohibit temporary type taps, which are considered to be hazardous. New requirements designated 46 CFR 183.10–17 are proposed to establish minimum standards for circuit breakers.

41. The authority for regulations regarding small passenger vessels carrying more than six passengers is in the Act of May 10, 1956 (P.L. 84–519; sec. 3, 70 Stat. 152; 46 U.S.C. 390b). The authority for regulations regarding small mechanically propelled vessels of 15 gross tons and over carrying freight for hire is in R.S. 4426, as amended (46 U.S.C. 404).

ITEM VI—SPECIFIC PROPOSALS REGARDING TANK VESSELS

ELEVATED TEMPERATURE CARGOES

42. Proposed regulations governing the transportation of materials considered to be Grade E liquids when shipped in molten form at elevated temperatures (such as molten sulfur and asphalt) were originally published in the Merchant Marine Council Agenda for the September 1954 Public Hearing. These proposals were held in abeyance pending reconsideration of the comments submitted by the industry. A subsequent revision incorporating the comments received from sulfur producers and shippers were published in the Agenda for the April 1956 Public Hearing. Due to receipt of further comments, which could not be resolved at that time, the Merchant Marine Council recommended that this subject be referred to the American Petroleum Institute for further industry review. The API Committee on Tank Vessels, at the recommendation of their Subcommittee—Group 6A3—Elevated Temperature Cargoes, recommended these proposed regulations with some modifications. The API Committee also recommended that the proposed regulations covering elevated temperature cargoes be promulgated as a separate part in the Tank Vessel Regulations in Subchapter D of 46 CFR Chapter I. The proposed regulations for elevated temperature cargoes have been designated as 46 CFR Part 36, consisting of §§ 36.01–1 to 36.30–1, inclusive.

CARGO DISCHARGES AND FOUNDATIONS FOR INDEPENDENT CARGO TANKS

43. It is proposed to specify the means for discharging cargo from gravity type cargo tanks by adding a new regulation designated 46 CFR 32.50–3, which will apply to both tank ships and barges on all waters. It is proposed to revise 46 CFR 32.60–30 so that cargo tanks independent of the hull structure will be supported in steel saddles or on steel foundations and securely anchored in place. These proposals were originally included in proposals relating to elevated temperature cargoes, but is now felt they should apply to all tank vessels regardless of the type of cargoes carried. These proposals were also recommended by the API Committee on Tank Vessels.

LIQUEFIED INFLAMMABLE GAS TANKS LOCATED IN TANK OR CARGO SPACES

44 It is proposed to revise 46 CFR 38.05–10(b) to permit the transportation of cargoes up to Grade A in cargo tanks surrounding propane or butane tanks, which is presently not permitted without special permission of the Coast Guard. The API Committee on Tank Vessels has recommended that tank vessels fitted with independent pressure vessels for the carriage of liquefied petroleum gases located within cargo tanks may use the surrounding cargo compartments for the carriage of inflammable or combustible liquids.

PORTABLE FIRE EXTINGUISHERS

45. Certain statutory laws require approval of fire extinguishers by the Commandant. The International Convention for the Safety of Life at Sea, 1948, requires approval of fire extinguishers by the Administration. Many sections of the various classes of the regulations also require approval of fire extinguishers by the Commandant. From 1916 until the present, there have been various regulations which required that every fire extinguisher shall be tested by the National Bureau of Standards and a report made by that Bureau to the Commandant (formerly the Board of Supervising Inspectors) before being approved for use on vessels. The present method of approval of portable fire extinguishers is by specific listing of each model in an order signed by the Commandant and published in the FEDERAL REGISTER. These approvals are issued after examinations, tests, and reports by the National Bureau of Standards, and evaluation of the results by the Coast Guard. When the results of prior tests by Underwriters' Laboratories, Inc., or the Factory Mutual Laboratories, or some other governmental agency, are available, such test data are ordinarily accepted in order that tests previously done need not be repeated by the National Bureau of Standards. It is proposed to remove from 46 CFR 34.25–1 the requirements that portable fire extinguishers shall be tested and reports thereon be made by the National Bureau of Standards. It is also proposed to amend 46 CFR 34.25–1 to require only that portable fire extinguishers be of an approved type.

SPARK PRODUCING DEVICES

46. It is proposed to revise 46 CFR 35.30–35, regarding spark producing devices on all tank ships and barges, to permit the use of ordinary hand tools under certain conditions. This proposal is based on practical experience and a conclusion described by the American Petroleum Institute in an article entitled "Sparks from Hand Tools" dated February 6, 1956, which reads: "Based on experimental evidence and ample practical experience, it has been concluded that in oil and gas operations no significant increase in fire safety will result from the use of so-called 'nonsparking' hand tools in lieu of ordinary tools made of steel." This proposal was also recommended by the API Committee on Tank Vessels.

WATCHMEN FOR UNMANNED BARGES

47. It is proposed to revise 46 CFR 35.05–15, regarding watchmen for unmanned tank barges on all waters, to provide for additional safety and security on unmanned tank barges when they are moored but not gas free. This proposal describes precautions required to be taken. It includes a terminal employee or other competent person as qualifying as the required watchman.

CARGO HANDLING RESPONSIBILITIES

48. It is proposed to revise 46 CFR 35.35–15, regarding connecting for cargo transfer; 35.35–20, regarding inspection prior to transfer of cargo; 35.35–30, regarding "declaration of inspection" for tank ships; 35.35–35, regarding duties of senior deck officer during transfer operations; and 35.35–50, regarding termination of transfer operation. These proposals are based on recommendations of the American Petroleum Institute, Inc., that certain regulations with respect to cargo handling operations be revised to clarify the responsibilities of those officers who handle bulk cargo transfers from or to vessels and to reflect changes based on newly developed cargo handling techniques.

FRESH-AIR OR SELF-CONTAINED BREATHING APPARATUS

49. It is proposed to revise 46 CFR 35.30–20 to permit the self-contained breathing apparatus to be used generally throughout the vessel in lieu of limiting its use to machinery spaces only. This proposal is also intended to insure protection for personnel who might have to enter machinery spaces of large tank ships under emergency conditions, since on such ships the fresh-air breathing apparatus is unsuitable because of ex-

cessive hose length, as well as to permit approved self-contained breathing apparatus above and beyond the minimum required equipment to be carried for unrestricted use.

50. The authority for prescribing regulations governing tank vessels is in R.S. 4405, as amended, 4417a, as amended, and 4462, as amended (46 (U.S.C. 375, 391a, 416). These regulations also interpret or apply sec. 3, 68 Stat. 675 (50 U.S.C. 198), and E.O. 10402 (17 F.R. 9917, 3 CFR, 1952 Supp.).

ITEM VII—FIRE PROTECTION EQUIPMENT

PORTABLE FIRE EXTINGUISHER SPECIFICATION

51. It is proposed to amend 46 CFR Part 162 by the addition of a new specification designated Subpart 162.028, entitled "Extinguishers, Fire, Portable," consisting of §§ 162.028–1 to 162.028–8, inclusive. This proposal will permit portable fire extinguishers listed and labeled as "marine type" by a recognized laboratory, such as Underwriters' Laboratories, Inc., to be accepted as Coast Guard approved equipment for use on inspected vessels, uninspected motorboats, and uninspected vessels. This proposal is intended to: (a) Relieve the Coast Guard and National Bureau of Standards from doing unnecessary work in examining and testing portable extinguishers for marine service; (b) relieve extinguisher manufacturers from the time delay and additional cost of repetitive examinations and tests of their marine type portable extinguishers; and (c) provide the Coast Guard inspection personnel, the shipping industry, and vessel owners and operators with definitely labeled "marine type" units acceptable as approved equipment.

FIRE HOSE ON INSPECTED VESSELS

52. The current vessel inspection regulations do not require that fire hose meet any standard other than be able to withstand a test pressure equivalent to the maximum pressure to which it may be subjected to in shipboard service, but not less than 100 p.s.i. It is proposed to add new regulations to 46 CFR 34.10–30 (tank vessels), 76.10–10 (passenger vessels), and 95.10–10 (cargo and miscellaneous vessels), which will require that fire hose installed on inspected vessels on and after January 1, 1961, shall be of fire hose quality. Fire hose which bears the appropriate label of Underwriters' Laboratories, Inc., will be accepted as conforming to this requirement. Other fire hose may be accepted if evidence is furnished to the Officer in Charge, Marine Inspection, that it is of fire hose quality. Fire hose must also be able to withstand without rupturing a hydrostatic pressure test of 500 p.s.i. held at least 5 seconds. As a result of information developed after the collision between the "SS Santa Rosa" and the "SS Valchem", and the subsequent fire aboard the "SS Santa Rosa", it is apparent that certain types of fire hose are not satisfactory for fire-fighting service aboard merchant vessels. Subsequent checking on samples of the fire hose used (which burst in actual use) indicated that the fire hose failed due to a pressure burst caused by a failure in the filler yarns. In this instance the filler yarns of the fire hose were of 8-ply construction, 3 of cotton and 5 of rayon. The rayon yarn used varies in strength with wetting action of water. The wet strength of rayon being only 50 percent of the dry strength. A conclusion was reached that deterioration was not a factor underlying this failure.

FIRE MAIN SYSTEMS ON BARGES

53. It is proposed to amend 46 CFR 95.05–5 and 95.05–10 with respect to fire mains and fire extinguishing systems on barges with sleeping accommodations so that they will apply to vessels carrying more than 12 persons in lieu of more than 6 persons. The present regulations, when adopted in 1957, were intended to apply to those barges upon which a large number of persons were quartered and stationed offshore in locations which might or might not be adjacent to adequate fire fighting facilities. Fire main and fixed extinguishing requirements were accordingly adopted to cover such barges and these requirements were made applicable to all barges with sleeping accommodations for more than six persons. Certain existing barges in the coastwise bulk cargo trade normally carry a crew of 9 and have sufficient fire protection equipment. The persons carried aboard these barges are not passengers in the usual sense. The proposed changes will exclude existing barges in the coastwise trade carrying their normal complement from requirements for additional fire protection equipment which is considered as unnecessary.

54. The authority for regulations dealing with fire-protection equipment is in R.S. 4405, as amended, 4462, as amended, 4488, as amended, and 4491, as amended (46 U.S.C. 375, 416, 481, 489). These regulations also interpret or apply R.S. 4417a, as amended, 4426, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 3, 54 Stat. 347, as amended, sec. 3, 70 Stat. 152, and sec. 3, 68 Stat. 675 (46 U.S.C. 391a, 404, 367, 1333, 390b, 50 U.S.C. 198).

ITEM VIII—ELECTRICAL ENGINEERING

DE-ENERGIZING OF ELECTRICAL CIRCUITS IN CARGO HOLDS

55. It is proposed to add new regulations designated 46 CFR 78.70–1, 78.70–5, 97.55–1 and 97.55–5 to the inspection regulations for passenger vessels and cargo or miscellaneous vessels, which will require the de-energizing of electrical circuits within a cargo hold before loading bulk grain or similar combustible bulk cargo and during the time such cargo is in the hold, as well as to require the posting of appropriate notices as a precaution against any subsequent unintentional re-energizing of such circuits while such cargo is in the hold. Recently a fire occurred in a hold containing grain in bulk. It was determined that the source of the fire came from live electrical lighting circuits within the hold. It is believed that the hazards can be controlled by requiring the de-energizing of such electrical circuits during the time combustible cargo is on board a vessel, rather than by requiring the removal of such lighting circuits. The regulations as proposed will direct the attention of vessel's officers to this particular hazard and emphasize need for preventive action.

MISCELLANEOUS AMENDMENTS

56. Miscellaneous changes to the Electrical Engineering Regulations are proposed which will clarify, correct or bring up-to-date certain requirements in 46 CFR Parts 110 to 113, inclusive. It is proposed to revise 46 CFR 110.15–85 to bring it into agreement with the National Electric Code and the American Institute of Electrical Engineers' Standard No. 45. The proposals to amend 46 CFR 111.05–5, 111.10–15, 111.25–25, 111.35–1, 111.45–5, 111.55–1, 111.55–20, 111.60–1, 111.65–50, and 111.70–10 are intended to clarify requirements, to accept newly developed practices, and to have regulations in agreement with the current American Institute of Electrical Engineers' Standard No. 45 or the National Electric Code. The proposal to revise 46 CFR 111.45–1 is to provide that all controlling apparatus with cable entrance plates for watertight enclosures shall be equipped with plates of sufficient thickness to permit tapping for terminal tubes and to provide watertight controller enclosures. It is proposed to revise 46 CFR 111.45–15, regarding heater circuits, to permit door actuated switches to be used to disconnect heaters within motor controllers. It is proposed to revise 46 CFR 111.45–20 to provide for more realistic short-circuit protection for steering gear control components (usually one horsepower or less). It is proposed to add requirements to 46 CFR 111.60–40 to assure that, when off, the switch will completely de-energize the explosion-proof unit and eliminate the possibility of sparking during maintenance. It is proposed to revise 46 CFR 112.05–5, regarding cable runs from the emergency switchboard, to clarify what is desired so that repeated interpretations are obviated. It is proposed to revise 46 CFR 113.25–15, 113.30–5 and 113.65–5 to clarify requirements and to permit acceptable substitutes with respect to whistle pulls in mechanical telegraphs.

57. Regulations with respect to electrical engineering are prescribed under R.S. 4405, as amended, 4462, as amended (46 U.S.C. 375, 416). These regulations also interpret or apply R.S. 4399, as amended, 4400, as amended, 4417, as amended, 4417a, as amended, 4418, as amended, 4421, as amended, 4426, as amended, 4427, as amended, 4433, as amended, 4453, as amended, 4488, as amended, sec. 14, 29 Stat. 690, as amended, sec. 10, 35 Stat. 428, as amended, 41 Stat. 305, as amended, sec. 5, 49 Stat. 1384, as amended, secs. 1, 2, 49 Stat. 1544, as amended, sec. 3, 54 Stat. 346, as amended, sec. 3, 68 Stat. 675; 46 U.S.C. 361, 362, 391, 391a, 392, 399, 404, 405, 411, 435, 481, 366, 395, 363, 369, 367, 1333, 50 U.S.C. 198; E.O. 10402, 17 F.R. 9917; 3 CFR, 1952, Supp.

ITEM IX—MARINE ENGINEERING

HYDRAULIC SYSTEMS

58. It is proposed to add regulations for hydraulic systems, which will provide a uniform set of requirements with respect to design, testing, inspection, and approval procedures. These proposals are designated 46 CFR Subpart 55.17, consisting of §§ 55.17–1 to 55.17–40, inclusive. The increased application of hydraulic systems on merchant vessels for anchor windlass, cargo winches, hydraulically operated hatch covers, fin stabilizers, controllable pitch propellers, in addition to the conventional electro-hydraulic steering gear, has necessitated a complete review of the requirements regarding hydraulic piping systems. In some cases industry standards have been used where specific requirements are not in the Coast Guard regulations. It has been also necessary to handle administratively requirements for specific installations. This proposal to have all applicable requirements for hydraulic systems in a separate subpart of the regulations is in response to requests from the marine industry, as well as from hydraulic component manufacturers and suppliers.

NUCLEAR ENERGY

59. The Atomic Energy Panel, M–13, of the Society of Naval Architects and Marine Engineers, acting as an advisory group to the Merchant Marine Council of the Coast Guard on matters pertaining to the safe application of nuclear power for merchant vessels, has completed its recommendations on the "Safety Considerations Affecting the Design and Installation of Water-Cooled and Water-Moderated Reactors on Merchant Vessels" with the publication of the Society of Naval Architects and Marine Engineers' Bulletin No. 3–6. The recommendations of the Panel are intended as a guide for the Coast Guard in evaluating the safety of nuclear systems and components on merchant vessels. These recommendations will be used during the interim period preceding the accumulation of actual operating experience of nuclear powered ships for the purpose of ultimately developing and promulgating detailed regulations. In order to provide a uniform basis for evaluating the safety of nuclear systems and components on merchant vessels, a new subpart to be added to 46 CFR Part 57 is being proposed for incorporation in the Marine Engineering Regulations. This subpart will be designated 46 CFR Subpart 57.30, consisting of §§ 57.30–1 to 57.30–25, inclusive, and will be under the general title "Nuclear Energy." In this proposal the Commandant will have authority to apply the Panel's recommendations as deemed necessary. The proposed regulations contain broad enabling clauses authorizing the Commandant to prescribe standards or requirements with respect to nuclear energy in order to obtain for a nuclear ship a degree of safety at least equivalent to the standards for a conventionally powered ocean-going vessel of similar size and capacity. It is intended, at this stage of development of nuclear propelled merchant vessels, to apply general safety categories peculiar to a nuclear ship, pending the development of detailed regulations which will be based on service experience to be gained from the operation of the first nuclear powered merchant ship, the "N. S. Savannah."

PIPING SYSTEMS AND APPURTENANCES

60. In order to clarify the intent of the regulations covering the use of plastic pipe on merchant vessels, it is proposed to amend 46 CFR 55.07–1(h) so as to specify the conditions under which plastic pipe would be acceptable in piping systems which lead through watertight decks or bulkheads. The present regulations on plastic pipe have been misinterpreted. It was not the intent to prohibit plastic pipe in such piping systems if the watertight integrity of the boundary was maintained. The proposed changes spell out in greater detail the requirements for a bulkhead spool piece and shut-off valve in piping systems leading through bulkheads or decks and in which plastic pipe is being employed.

61. The existing regulations limit the use of flanges machined from a steel plate to a maximum pressure of 125 p.s.i. and a maximum temperature of 450° F. The marine industry has requested that such a flange be permitted for Class II piping but subject to the same limitations and it is proposed to so amend the context of Figure 55.07–15(f5) in 46 CFR 55.07–15(f). This flange is considered to be a suitable substitute for the hub type slip-on flange. This type of flange has been accepted by the American Standards Association and the American Bureau of Shipping for the proposed pressure and temperature limitations.

62. It is proposed to amend 46 CFR 55.10–1(e) to show clearly that steam and exhaust pipes may be led through "oil bunkers." At present 46 CFR 55.10–1(e) prohibits steam and exhaust pipes to be led through "bunkers" unless the arrangement is approved by the Commandant. The question was raised as to whether or not the word "bunkers" included "oil bunkers" as well as "coal bunkers." This proposal will limit the restriction to "coal bunkers."

63. It is proposed to revise 46 CFR 55.10–50(e) to permit in machinery spaces outlets in fuel oil lines, which may be used for draining water or impurities from fuel oil systems. The present regulations prohibit the location of such outlets to be in the machinery spaces. On many small passenger vessels fuel oil line valves are located in the machinery spaces and used for draining water or impurities from fuel oil systems. This drainage has been accomplished without creating too much of a hazard under properly controlled arrangements. Therefore, it is proposed to permit similar arrangements for other inspected vessels. It is also proposed to require that valves be fitted with caps or plugs to prevent leakage.

64. With respect to the required height of vent openings from the deck, it is proposed to revise 46 CFR 55.10–60(e) to clarify how the distance should be measured and to specify the height of vent piping from the deck at various locations on the vessel. The present regulation requires the distance to be measured from the deck to the opening of the vent pipe, the location of which is not clearly defined. In order to clarify what is meant by "opening," the regulation in 46 CFR 55.10–60(e) will specify the height of the vent opening from the deck and state it should be measured to the inside of the return bend. This is in agreement with the intent of the requirements for vent pipe in the rules of the American Bureau of Shipping.

NODULAR CAST IRON FOR VALVES, FITTINGS AND ACCESSORIES

65. It is proposed to amend 46 CFR 38.10–1(a), 39.10–1(a), and 98.25–40(a), regarding valves, fittings and accessories for tanks containing liquefied inflammable gas, Class B poisonous liquids, or anhydrous ammonia in bulk to permit such equipment to be manufactured from nodular cast iron of American Society of Testing Materials' designation A395–56T. The use of nodular cast iron conforming to A.S.T.M. Designation A395–56T, Grade 60–40–15, is considered suitable in piping systems where malleable iron or cast steel are currently permitted. Grade 60–40–15 is considered to be equal or superior to malleable iron and hence, may be used as a substitute for this material in piping systems intended for liquefied petroleum gas, Class B poisonous liquids, and anhydrous ammonia.

REPAIRS INVOLVING WELDING OR BURNING ON VESSELS; CARRYING CERTAIN DANGEROUS CARGOES IN BULK

66. It is proposed to revise 46 CFR 98.20–70 and 98.25–90, regarding repairs involving welding or burning on vessels transporting bulk cargoes of liquid chlorine or anhydrous ammonia, to permit "hot work" to be done on the barge structure without first requiring the bulk cargo tanks to be gas freed. The present regulations covering welding or burning repairs on anhydrous ammonia barges prohibit repairs to the structure of the barge while liquid or vapor is present in the cargo tanks. A request has been received from a producer and shipper of anhydrous ammonia to permit welding repairs on the anhydrous ammonia barge structure while cargo is present in the system if the repairs are conducted in a manner approved by the National Fire Prevention Association's Pamphlet No. 306. Reference was made to welding repairs on chlorine barges, the present regulations for this commodity prohibiting repairs to be undertaken on the cargo tanks or piping only, and permitting repairs on the cargo barge structure. In order to avoid costly gas-freeing operations on anhydrous ammonia barges where hot work is limited to the barge structure, amendments to the regulations are being proposed to make the requirements for welding and burning repairs consistent.

67. The authority to prescribe regulations with respect to marine engineering subjects is in R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. These regulations also interpret or apply R.S. 4399, as amended, 4400, as amended, 4417,

as amended, 4417a, as amended, 4418, as amended, 4421, as amended, 4426–4431, as amended, 4433, as amended, 4434, as amended, 4453, as amended, 4488, as amended, 4491, as amended, sec. 14, 29 Stat. 690, as amended, 41 Stat. 305, as amended, secs. 1, 2, 49 Stat. 1544, as amended, sec. 17, 54 Stat. 166, as amended, sec. 3, 54 Stat. 346, as amended, sec. 3, 68 Stat. 675, sec. 3, 70 Stat. 152; 46 U.S.C. 361, 362, 391, 391a, 392, 399, 404–409, 411, 412, 435, 481, 489, 366, 363, 367, 526p, 1333, 390b, 50 U.S.C. 198; E. O. 10402, 17 F.R. 9917, 3 CFR, 1952 Supp.

VENTING AND/OR VENTILATION OF VOID SPACES ADJACENT TO CARGO TANKS CONTAINING CERTAIN DANGEROUS BULK CARGOES

68. It is proposed to revise the venting and/or ventilation requirements in 46 CFR 98.05–10, 98.05–50, 98.10–10, 98.10–45, 98.15–10, and 98.15–45, which apply to cargo and miscellaneous vessels transporting bulk cargoes of elemental phosphorous, sulfuric acid, or hydrochloric acid, to reduce some of hazards involved, to clarify their intent, and to prescribe minimum acceptable standards. The major personnel hazards under consideration are the explosiveness of hydrogen gas and/or the corrosiveness of the heavier-than-air, acid vapors discharged from the bulk cargoes. Attention is directed to the fact that the usual 30 x 30 mesh flame screens used in connection with petroleum products are not effective in arresting flame propagation in hydrogen gas. Therefore, other types of suitable flame arresters must be installed which will provide adequate protection. For inaccessible compartments adequate personnel safety may be had by appropriate venting which will provide escape for the light, explosive hydrogen gas. For accessible compartments the removal of both the heavier-than-air acid vapors and the light, explosive hydrogen gas is necessary to provide adequate safety to personnel. The proposals are also intended to provide safe working conditions for personnel performing inspection and maintenance work around the cargo tanks and in adjacent void spaces.

69. The authority to prescribe regulations with respect to transportation of certain dangerous bulk cargoes is in R.S. 4405, as amended, 4462, as amended, 4472, as amended; 46 U.S.C. 375, 416, 170. These regulations also interpret or apply sec. 3, 68 Stat. 675; 50 U.S.C. 198; E.O. 10402, 17 F.R. 9917, 3 CFR, 1952 Supp.

ITEM X—STOWAGE OF BULK ORE CARGOES

70. It is proposed to add new requirements designated 46 CFR 97.12–1 which will require owners or operators of general cargo vessels carrying bulk cargoes, such as ore, ore concentrates and similar cargo, to furnish the Masters of such vessels guidance information with respect to the safe stowage of such cargoes. Following the loss of the "SS Mormackite", proposed regulations relating to the stowage of bulk ore and similar cargoes were considered at Merchant Marine Council Public Hearings held in 1956 and 1957. Many comments on this subject were received. In lieu of amending the regulations at that time, the Commandant appointed an Industry Advisory Panel to the Merchant Marine Council under the chairmanship of Captain Harry J. Parker, Chief Surveyor of the National Cargo Bureau, to consider the problems involved with respect to various types of bulk ores transported in general cargo vessels. The Panel's initial report was in the form of a "Proposed Code of Good Practice for the Stowage of Bulk Cargoes such as Ore, Ore Concentrates, and Similar Cargoes When Carried in General Cargo Vessels." This proposed Code was placed on the Merchant Marine Council Public Hearing Agenda in 1958, and comments requested with respect thereto. Afterwards the Panel was reconvened to consider these comments and to adopt such changes as considered appropriate, and the revised Code was considered by the Merchant Marine Council in 1959. This Code will be published by the National Cargo Bureau, Inc., 99 John Street, New York 38, New York. The proposed regulation will endorse and recognize this Code for use in complying with the requirement of furnishing guidance information to Masters.

71. The authority to prescribe regulations with respect to stowage of bulk ore cargoes is in R.S. 4405, as amended, and 4462, as amended; 46 U.S.C. 375, 416. These regulations also interpret or apply R.S. 4417, as amended, 4418, as amended, 4426, as amended, 4453, as amended, secs. 1, 2, 49 Stat. 1544, as amended, sec. 3, 68 Stat. 675; 46 U.S.C. 391, 392, 404, 435, 367, 50 U.S.C. 198; E.O. 10402, 17 F.R. 9917, 3 CFR, 1952 Supp.

ITEM XI—DANGEROUS CARGOES

72. Various amendments to the Dangerous Cargo Regulations in 46 CFR Part 146 have been necessitated by corresponding changes made in the regulations of the Interstate Commerce Commission governing land transportation of the same commodities. R.S. 4472, as amended (46 U.S.C. 170), requires that the Coast Guard accept and adopt such definitions, descriptions, descriptive names, classifications, specifications for containers, packing, marking, labeling and certification of explosives or other dangerous articles or substances to the extent as are or may be established from time to time by the Interstate Commerce Commission insofar as they apply to shippers by common carriers engaged in interstate and foreign commerce by water. The provisions of 46 CFR 146.02–19 make these Dangerous Cargo Regulations applicable to all types of carriers. Therefore, those amendments containing requirements applying only to shippers' and upon which the Interstate Commerce Commission has already complied with rule making provisions of the Administrative Procedure Act are not included in this Agenda for April 4, 1960 Merchant Marine Council Public Hearing, but will be published as a separate document in the FEDERAL REGISTER.

73. The proposed amendments set forth in the Agenda in detail are provisions for water shipment of new articles of commerce, editorial changes to existing regulations, and amendments to various regulations other than those containing only shippers' requirements. It is proposed to amend the commodity list, 46 CFR 146.04–5, to reflect additions and deletions of dangerous articles, editorial changes, and to state the label required for each item. Exemptions are made in the detailed regulations.

74. It is proposed to amend 46 CFR 146.05–5, regarding ICC specification containers, to permit the use of portable tanks with a gross weight of over 8,000 lbs. and not exceeding 20,000 lbs., which have ICC approval, without prior special Coast Guard permission.

75. The proposals with respect to nitro carbo nitrates are made after consideration of the petitions, comments, views, and data received with respect to the same subject, which were submitted in connection with Item IX of the Agenda for the April 27, 1959, Merchant Marine Council Public Hearing. In view of the interest expressed, it was decided to place the revised proposals on this Agenda for further consideration and discussion. It is proposed to:

a. Amend 46 CFR 146.20–23(g) and 146.22–15(b) to require that when nitro carbo nitrate is stowed in the same hold with a magazine containing certain types of explosives it shall be packaged in non-combustible containers.

b. Add a new section designated 46 CFR 146.22–40 to provide for a differentiation in stowage and handling between nitro carbo nitrate when packaged in non-combustible containers and when packaged in bags or other combustible containers.

c. Amend Table E in 46 CFR 146.22–100 to bring up to date the stowage and labeling requirements and description of physical characteristics for nitrates.

76. It is proposed to amend 46 CFR 146.22–30, regarding authorization to load or discharge ammonium nitrate and ammonium nitrate fertilizers, by clarifying requirements for the 1,000 lb. sample and to authorize import shipment of such a sample as "nitrates, N.O.S." It is also proposed to amend Table E in 46 CFR 146.22–100 to specify the conditions which will exempt book matches from marking requirements.

77. It is proposed to provide stowage and labeling requirements, as well as description of physical characteristics, for new items "decaborane," in Table E in 46 CFR 146.22–100 and 46 CFR 146.22–25 (d); "di iso octyl acid phosphate" in Table F in 46 CFR 146.23–100; "dispersant gas, N.O.S.," and "refrigerant gas, N.O.S." in Table G in 46 CFR 146.24–100; and "organic phosphates, N.O.S. mixed with compressed gas" and "methyl bromide and nonflammable, nonliquefied compressed gas mixtures, liquid" in Table H in 46 CFR 146.25–200.

78. In order to clarify regulations in their intent or application, or to revise definitions, or other requirements to agree with ICC definitions or requirements, it is proposed to amend 46 CFR 146.21–30(j), regarding stowage of cotton and inflammable liquids; 46 CFR 146.22–1, regarding definition of inflammable solids and oxidizing materials; 46 CFR 146.22–10(e) and (g), regarding stowage of inflammable solids with explosives; 46 CFR 146.22–15(h) and (j),

regarding stowage of oxidizing material with explosives or other dangerous articles; 46 CFR 146.23-1, regarding definition of corrosive liquids; 46 CFR 146.23-25(i), regarding stowage of corrosive liquids with cotton; 46 CFR 146.23-100, regarding stowage and packaging of "batteries, electric storage, wet"; and 46 CFR 146.27-25 and 146.27-100, regarding stowage of "cotton," "cotton batting," "cotton waste," etc. Many of these proposals are also intended to provide more specific language with respect to referenced requirements.

79. The authority to prescribe regulations with respect to dangerous cargoes is in R.S. 4405, as amended, 4462, as amended, 4472, as amended; 46 U.S.C. 375, 416, 170. These regulations also interpret or apply sec. 3, 68 Stat. 675; 50 U.S.C. 198; E.O. 10402, 17 F.R. 9917, 3 CFR, 1952 Supp.

ITEM XII—MISCELLANEOUS PROPOSALS

COMMITMENT OF EMPLOYMENT

80. It is considered that service ashore in the United States Navy, Military Sea Transportation Service, Army Transportation Corps, or Coast Guard should not be accepted in lieu of a commitment of employment for an original merchant mariner's document. This proposal will require that an applicant with military service must have actually served on military operated vessels in order to be eligible for an original merchant mariner's document without presenting a commitment of employment. It is therefore proposed to appropriately revise 46 CFR 12.25-5 to reflect this restriction.

81. The authority to prescribe regulations with respect to merchant mariner's document is in R.S. 4551, as amended, sec. 13, 38 Stat. 1169, as amended, and sec. 7, 49 Stat. 1936, as amended (46 U.S.C. 643, 672, 689).

STABILITY STANDARDS FOR PASSENGER VESSELS OF UNUSUAL DESIGN

82. Limited experience in the analysis of righting arm characteristics has indicated that literal application of the stability standards in 46 CFR Part 74, in some cases, may not be sufficient to insure adequate stability. Considering the large variety of small watercraft designs available, the problem of establishing a suitable general standard for stability is a complex one. Until such time when more definitive standards for vessels of unusual design can be developed, it is proposed to have a general precautionary regulation rather than a specific standard, which will be designated 46 CFR 74.10-11.

83. The authority to prescribe regulations with respect to stability of passenger vessels is in R.S. 4405, as amended, and 4462, as amended (46 U.S.C. 375, 416). This regulation also interprets or applies R.S. 4417, as amended, 4418, as amended, 4426, as amended, and 4490, as amended, sec. 3, 24 Stat. 129, 41 Stat. 305, sec. 2, 45 Stat. 1493, sec. 2, 49 Stat. 888, sec. 5, 49 Stat. 1384, secs. 1, 2, 49 Stat. 1544, as amended, sec. 3, 54 Stat. 346, as amended, sec. 3, 70 Stat. 152, and sec. 3, 68 Stat. 675; 46 U.S.C. 391, 392, 404, 482, 483, 363, 85a, 88a, 369, 367, 1333, 390b, 50 U.S.C. 198; E.O. 10402, 17 F.R. 9917, 3 CFR, 1952 Supp.

Dated: February 9, 1960.

[SEAL] A. C. RICHMOND,
Vice Admiral, U.S. Coast Guard, Commandant.

[F.R. Doc. 60-1547; Filed, Feb. 17, 1960; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 949]

[Docket No. AO-232-A8]

MILK IN SAN ANTONIO, TEXAS, MARKETING AREA

Notice of Extension of Time for Filing Exceptions to Recommended Decision to Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the San Antonio, Texas, marketing area, which was issued February 1, 1960, (25 F.R. 977), is hereby extended to February 27, 1960.

Dated: February 15, 1960.

ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 60-1550; Filed, Feb. 17, 1960; 8:48 a.m.]

[7 CFR Part 1028]

[Docket No. AO-314]

MILK IN CENTRAL ILLINOIS MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions to Proposed Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to a proposed marketing agreement and order regulating the handling of milk in the Central Illinois marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington 25, D.C., not later than the close of business the 20th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed marketing agreement and order, as hereinafter set forth, were formulated, was conducted at Bloomington and Peoria, Illinois, on August 25-September 4, 1959, pursuant to notice thereof issued July 20, 1959 (24 F.R. 5908) and notice of postponement of hearing issued July 28, 1959 (24 F.R. 6165).

The material issues of record relate to:

1. Whether the handling of milk produced for sale in the proposed marketing area is in the current of interstate commerce, or directly burdens, obstructs, or affects interstate commerce in milk or its products;

2. Whether marketing conditions show the need for the issuance of a milk marketing agreement or order which will tend to effectuate the policy of the Act; and

3. If a marketing agreement or order is issued, what its provisions should be with respect to:

(a) The scope of regulation;

(b) The classification and allocation of milk;

(c) The determination and level of class prices;

(d) Distribution of proceeds to producers; and

(e) Administrative provisions.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

(1) The handling of all milk to be regulated by the marketing agreement and order for the Central Illinois marketing area, as contained in this decision, is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce in milk or its products.

Although the Central Illinois marketing area, as herein defined, is located entirely within the State of Illinois a substantial proportion of the fluid milk disposed of in such area originates from sources outside the State. A number of farms and plants in the States of Wisconsin, Iowa, Indiana, and Missouri have been and are supply sources of milk for the counties to be regulated. At least 14 Wisconsin and Iowa plants and one Minnesota plant supplied milk to the Central Illinois market in 1958. One source in Wisconsin supplied Central Illinois handlers with more than 13 million pounds during that year and continues to be a major source of supplementary milk. During several months of the year such imports amount to as much as 10-20 percent of an individual handler's receipts of bottling quality milk. The importation of milk is not confined to a relatively few handlers. Imports are made by all the larger handlers who operate routes throughout the entire marketing area and by many of the smaller handlers whose individual operations are confined to a particular

county or group of counties. Relatively few plants rely entirely upon locally-produced farm supplies to cover their complete bottling needs.

Fluid milk is distributed in the marketing area on routes originating at plants regulated by the Federal orders for the Chicago, Illinois, and South Bend-LaPorte-Elkhart (Indiana) marketing areas. Route sales by Chicago handlers in the Central Illinois marketing area in June 1958 amounted to approximately 4.7 million pounds. Chicago order handlers also furnish bulk fluid milk and cream to numerous Central Illinois plants as supplementary supplies. In 1958 more than 2.0 million pounds were furnished in this manner. Fluid milk by-products are imported in packaged form by a Central Illinois handler from an affiliated plant at St. Louis, Missouri, where the milk used to produce such products is priced by the Federal order for the latter market. These by-products are distributed by the Central Illinois handler on routes in the marketing area. Milk received at plants regulated under each of the three orders referred to has been determined to be in the current of interstate commerce or to directly burden, obstruct or affect interstate commerce in milk.

Milk and fluid milk by-products received from out-of-state sources are disposed of at wholesale and retail in direct and regular competition with fluid milk and by-products derived from milk produced on farms within the State of Illinois. In many instances in-state and out-of-state milk are commingled at the time of processing in the Central Illinois plant. In other instances Central Illinois handlers handling only milk produced within the State of Illinois compete in the distribution of fluid milk and its by-products with handlers receiving milk produced primarily outside the State.

(2) The issuance of a milk marketing order is warranted to achieve the purposes of the Agricultural Marketing Agreement Act of 1937, as amended.

It is the declared policy of the Congress, as stated in the Agricultural Marketing Agreement Act of 1937, as amended, to establish and maintain such orderly marketing conditions as will establish minimum prices to the producers of the commodity at a prescribed level. The prices which it is declared to be the policy of the Congress to establish, for the purpose of a marketing agreement or order, shall reflect the "price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk or its products" in the marketing area to which the contemplated marketing agreement or order relates, shall insure a sufficient quantity of pure and wholesome milk, and be in the public interest. Such level of prices, once established, shall be adjusted as the Secretary of Agriculture finds necessary on account of changed circumstances. It is concluded from the record evidence, as referred to below, that (1) such Congressional objectives will not be accomplished for producers who are the primary source of milk supply for the Central Illinois marketing area without the institution of an order regulating the handling of milk in such area, and (2) public hearing procedure as required by the statute is necessary to assure full opportunity for representation of all parties interested, including the producers (who are most concerned), and to allow public participation, in presenting evidence relating to marketing conditions, in the determination of prices in accordance with the criteria established by the Congress.

The Central Illinois marketing area, as defined herein, lacks a full supply of milk from sources which may be identified primarily with this particular market to the exclusion of other fluid milk markets. Numerous handlers, with both large and small operations, in the Central Illinois market rely upon supplies from distant sources, mainly from Wisconsin, to supplement milk received from nearby Illinois producers. These distant milk supplies in large part represent, at present, the surplus, or left-over, milk from the fluid milk requirements of other markets and are only incidentally associated with the Central Illinois market. Such milk is in position to, and does, take advantage of that fluid market which returns the highest price at the time, without obligation to be available when needed by the Central Illinois market.

The Central Illinois market should be open, of course, to any duly approved milk, producers or plants, wherever located, but the consumers of such area are entitled to dependable sources of approved supplies and the producers on which this market primarily depends should have, if they desire it, price protection against the surplus supplies of other fluid milk markets, and particularly so when the importation of supplemental supplies brings about the disposition of nearby milk in surplus uses and relatively low prices to the producers involved.

Procurement policy at a number of Central Illinois plants has led to relatively low prices to nearby producers for milk representing the bulk (80–90 percent) of their milk receipts, while higher prices have been paid simultaneously for the lesser proportion of milk purchased from more distant, but indefinite, sources. One company of substantial size does not bargain with the local producers to any appreciable extent. A price is offered and producers are obliged to deliver at that price or not at all. If insufficient milk is delivered, the company purchases elsewhere. Nearly 50 percent of all producers supplying the Central Illinois market are affected by this procurement policy. Also it is generally the plan of handlers to project requirements and to contract for supplemental supplies to cover expected needs rather than to carry any significant quantities of milk in reserve. This policy has been followed to keep milk procurement costs at minimum, since under present conditions the costs of carrying a full supply from local producers on a year-round basis is relatively greater than the extra amount (over the local producer price) spent on borderline quantities purchased to complete fluid milk requirements. Under an order there would be less reluctance to carry additional supplies.

The contention was made in the record that because the Central Illinois market as a whole is not a "surplus-producing" market there is no need for regulation to establish and maintain orderly marketing conditions for the regular producers. Regulation of this kind is not reserved, however, to the settlement of problems of surplus. Whether marketing conditions are orderly may revolve around problems of marketing, price or bargaining. For example, are the price plans in the market effective in promoting market stability for producers? Is there a reasonable distribution of fluid milk sales among all producers? What circumstances require the use of outside (temporary) sources of milk? Do producers have information available as to market conditions? Price problems may involve the level of prices in the area relative to other areas, the adequacy and dependability of local supplies as influenced by prices, and the disparity of prices among producers and among handlers in various segments of the market. On the bargaining side the questions may be raised, "Is there sufficient confidence in the bargaining system, or are cooperatives in a position to bargain effectively with all or certain handlers?"

To some degree nearly all the problems implicit in the above questions are demonstrated by the record of the hearing. As previously stated, the procurement policy of handlers generally has resulted in the purchase of more distant supplies during the same periods when locally-produced milk is underpriced (further discussed under Class I price), and sometimes left without a Class I outlet. Although the sales patterns of handlers cover a wide area, there is no effective bargaining program, except in very local terms, on which producers generally may rely for a voice in making the price of their product. More than half of all producers have no representation, except as individuals, with their handlers. Although local supplies are inadequate to the growing needs of the market, and temporary sources of milk are utilized, local farmers sometimes must wait to find an outlet. Also, there is no apparent means by which producers may acquire on their own the information about their market and its requirements on which to base a sound marketing program. In view of prevailing procurement practices and attitudes, many producers in this market are unable to improve their marketing position, receiving a lower level of prices than is justified either on the basis of alternative supply costs or on the market's current supply position in relation to its rapidly growing needs for milk.

The introduction of an order will tend to effectuate the declared policy of the statute by assisting in the establishment and maintenance of orderly marketing conditions for all the producers, wherever located, supplying this market, and thus will provide the basis for insuring an adequate and dependable supply of

approved milk for consumers. The principal measures to be employed for this purpose are:

(a) A regular and dependable method for determining minimum prices to producers at levels contemplated under the Agricultural Marketing Agreement Act, as amended;

(b) The establishment of uniform pricing to handlers for milk received from producers according to a classified price plan based upon the utilization made of the milk;

(c) An impartial audit of handlers' records of receipts and utilization further to insure uniform prices for milk purchased;

(d) A means for insuring accurate weights and tests of milk;

(e) Uniform returns to producers supplying the market and an equitable sharing by all producers of the lower returns from the sale of reserve milk; and

(f) Marketwide information on receipts, sales, and other data relating to milk marketing in the area.

(3) *Scope of regulation.* It is appropriate to designate clearly what milk and what persons would be subject to the various provisions of the order. This may be done by providing definitions which describe the area involved, and set forth the categories of persons, plants and milk products to which the provisions of the order apply.

(a) The marketing area should be defined as the area including twenty-eight specified counties located in the central part of the State of Illinois.

The marketing area should consist of the area geographically within the perimeter boundaries of the counties of Champaign, Christian, Coles, Cumberland, DeWitt, Douglas, Edgar, Ford, Fulton, Knox, Livingston, Logan, Macon, Marshall, Mason, McDonough, McLean, Menard, Moultrie, Peoria, Piatt, Sangamon, Shelby, Stark, Tazewell, Vermilion, Warren and Woodford, in the State of Illinois. Within these counties are such cities as Peoria (pop. 111,856), Galesburg (pop. 31,425), Springfield (pop. 81,628), Bloomington (pop. 34,163), Decatur (pop. 66,269), Mattoon (pop. 17,547), Danville (pop. 37,864), and Champaign (pop. 39,563). Located also within such counties are certain governmental institutions and military facilities which are supplied with milk by companies that would become handlers under the regulation. Such facilities are included as part of the marketing area if located either entirely or partly within such counties, since it would not be administratively feasible to segregate deliveries of fluid milk made within the marketing area in the case of any such institutions or facilities found partly within and partly outside the designated counties. The population of the entire marketing area exceeded 1.1 million in 1950.

For pricing purpose the counties of Christian, Coles, Cumberland, Logan, Macon, Menard, Moultrie, Sangamon and Shelby are designated as the "base zone" of the marketing area.

Most of the fluid milk disposed of in the above counties is bottled in plants, located within such counties, which will be fully subject to the order. A small percentage of the total fluid milk distributed originates at bottling plants regulated under other Federal orders. A still smaller percentage, perhaps one percent, of the total milk distributed is bottled at other plants located outside the defined marketing area.

As the result of active competition in the distribution of milk at wholesale and retail throughout the named counties, a complex criss-cross pattern of distribution routes has been established. Several of the largest plant operators, including three companies with national chain affiliations, maintain route distribution throughout such counties, although each such handler does not maintain routes in each and every county. One chain operator operates six milk bottling plants located within this area from which routes are operated. In the aggregate the routes of such handler from these plants extend into all the counties herein proposed for regulation. Handlers with smaller operations tend to be more localized in their distribution, sometimes confining routes to the respective county within which the plant is located, but nevertheless are in active day-to-day wholesale and retail route competition with the larger handlers who, taken together, operate throughout the entire twenty-eight county area, even into the rural portions. Although some routes of handlers to be regulated extend into the other (23) counties which were proposed for regulation by interested parties, and in certain instances even into counties not considered for regulation under this order, the great bulk of their fluid milk sales are made within the above-named twenty-eight counties.

As evident from the widespread competition among handlers throughout the twenty-eight counties, the health regulations applicable to the production and handling of fluid milk are so similar in all such counties as to permit milk to move from one part of the area for consumption in another, without meeting additional health restrictions. State health regulations have been established which closely follow the standards of the Milk Ordinance and Code of the U.S. Public Health Service. The State regulations provide a minimum standard which may be, but seldom is, modified by stricter requirements adopted by local health authorities. In view of the high degree of similarity of minimum health standards, and the reciprocity of approval practiced throughout the twenty-eight county area, it is reasonable to apply single regulation to the handling of all milk produced for such area.

It is, of course, neither administratively feasible nor necessary to include within the marketing area all the territory in which handlers may be distributing any portion of their fluid milk sales. The twenty-eight county area adopted herein as the marketing area, together with other order definitions and regulatory provisions, reduces to a minimum the "out-of-area" sales of fully regulated handlers, without subjecting to full regulation plants which either represent a minor competitive factor insofar as the entire area is concerned, or are not intimately and primarily associated in the handling of milk for the "Central Illinois" marketing area but procure and sell the major volume of their milk in other markets against other competition. On the other hand, the order provides regulated handlers with reasonable protection from possible producer price disadvantage in those areas where they compete with distributors whose milk will not be pooled. The perimeter boundary of the marketing area represents a line of demarkation between the fully regulated and other distributing plants which will tend to reduce to a minimum both the administrative and competitive problems associated with the procurement and distribution of milk at the fringes of the marketing area.

It is concluded that twenty-three counties discussed below, which also were considered at the hearing, should be omitted from the marketing area on the basis that their inclusion in the marketing area would have little purpose in promoting the orderly marketing of milk as provided by this regulation.

Among the counties proposed for inclusion were Whiteside, Carroll, Henry, Mercer, Lee, and DeKalb, Illinois. Although the proponent of the proposal to include these counties did not make an appearance at the hearing, certain information on the marketing of milk therein was developed in the record. These counties are located to the north and northwest of the defined marketing area. Only small proportions of the fluid milk business of handlers to be regulated are conducted in such six counties. Greater volumes of milk are sold in the first four of such counties by milk distributors regulated under the Federal orders for the Quad Cities and Cedar Rapids, Iowa, marketing areas. Local handlers in these counties frequently purchase packaged fluid milk and by-products from Quad Cities handlers. The amount of fluid milk business done in such four counties by Quad Cities handlers represents nearly 15 percent of the total Class I sales of the Quad Cities market, but the sales of Central Illinois handlers in these counties represent only a negligible proportion of the Central Illinois market. There was no testimony in support of the inclusion of Lee and DeKalb counties. However, these counties are served primarily by distributors regulated under Order No. 41 and Order No. 91 for Chicago and Rockford-Freeport, Illinois, respectively.

There are no local handlers in Iroquois County. A substantial proportion of the fluid milk distribution in this county is carried on from other markets where producer prices are regulated under existing Federal orders. Distribution by Central Illinois handlers in this county from plants in the defined area represents a very minor proportion of their total sales.

Bureau, Putnam, La Salle, Kankakee, and Grundy Counties are served primarily by handlers with plants located therein or by plants regulated by other Federal orders. Distribution from Central Illinois area plants in these counties is minor.

Effingham and Clark Counties may be referred to as rural counties. They are served mainly by distributors having only minor distribution in the defined marketing area. Clark County has no local milk distribution plants, while Effingham County has only one such plant. Handlers who would be fully regulated have only small percentages of their distribution in such counties.

Brown, Pike, Schuyler, and Scott Counties have no local milk distributing plants. Milk is furnished to these areas by both handlers to be regulated and by milk distributors at Quincy, Illinois, located at a substantial distance from the nearest populous centers of the defined marketing area. However, because of the rural nature of these counties milk sales volumes are small and those sales made by individual handlers to be regulated represent a very minor proportion of total business in each. The situation in Cass, Hancock, and Morgan Counties is very similar to that in above-named four counties, except that each of such three counties has one local milk plant. The omission of all seven counties as a group will delineate the Central Illinois market from an area served mainly by local handlers and from plants in the Quincy market.

Adams County is served primarily by local handlers at Quincy. Quincy, the most populous community in such county, is beyond the customary route distribution areas of most handlers to be fully regulated. Distribution in this area is not integrated substantially with distribution in the defined marketing area.

Greene County is served principally by milk distributors outside the twenty-eight county area. This county is proposed for regulation as a part of the Suburban St. Louis marketing area pursuant to a recently issued decision, and regulation of this type should not be duplicated in such county.

Plants. The minimum class prices of the order and the pooling of the proceeds for milk should apply to that milk eligible for distribution as Grade A milk in the marketing area which is received from dairy farmers at plants which have significant relationship to the marketing area. Accordingly, such plants should be defined as "pool plants", the qualified dairy farmers supplying such milk, as "producers", and this milk, as "producer milk". Certain other definitions such as "dairy farmer for other markets", "area plant", "nonpool plant", "route", "handler", "producer-handler", and "other source milk", included for clarity and brevity, serve to distinguish between kinds of milk and among types of plants and persons affected by the regulation. Such of these definitions as are self-explanatory are not discussed further.

The term "pool plant" should include any milk plant from which the total Class I milk disposed of on routes (inside or outside the marketing area) is not less than 50 percent of the Grade A milk received at such plant from dairy farmers and from other plants during the month, and from which 20 percent or more of the total disposition of Class I milk from the plant is made in the marketing area on retail or wholesale routes. Such term also should include any milk plant which receives Grade A milk from dairy farmers and from which not less than 50 percent of such receipts during the month are moved as milk to a distributing-type plant (described above). If such shipments are not less than 50 percent of such farm receipts at the plant during each of the months of August through January, provision should be made to continue the pool plant status of such plant during the following months of February through July, unless the operator of such plant makes prior written application to the market administrator for nonpool status.

Since the marketwide pooling of the proceeds for Grade A milk received from dairy farmers at pool plants, as provided for hereinafter, is considered essential to promote the orderly marketing of milk in this area, the establishment of reasonable delivery performance standards for pool plants is essential to the proper functioning of the marketwide pool.

Milk is disposed of for fluid consumption in the marketing area from plants having varying degrees of relationship to the market, ranging from exclusive to temporary, or incidental, service as suppliers of the market. Plants only temporarily, or incidentally, associated with the market should not be permitted or required to equalize (pool) their sales of milk with other plants serving the market regularly and substantially, and consequently should not be subject to full regulation. If milk at a plant not genuinely associated with the market were to be permitted to share on a pro rata basis in the Class I utilization of the entire market, that price paid for Class I milk could be dissipated without accomplishing its intended purpose of inducing an adequate supply of pure and wholesome milk for the market. If a plant were to be pooled on the basis of token shipments of milk for sale as Class I milk, then any milk plant selling a lesser share of its milk in Class I than the average for all pool plants might be encouraged to make such sales merely for the purpose of receiving equalization payments from the pool. The only other qualification any plant is required to meet, it may be noted, is approval by a recognized health authority as a supplier of Grade A milk for the market.

Because reserve milk is an essential part of any fluid milk operation, there will be some excess of milk over fluid requirements at distributing plants engaged primarily in supplying other markets, and particularly so in the months of flush production. Such plants, and perhaps other plants engaged in substantial manufacturing operations, might make token sales, or supply milk on an opportunity basis, to regulated plants when supplies are relatively short in order to participate in the marketwide pool. Such plants would not represent dependable sources of milk for consumers in this marketing area. A distributing-type plant from which less than 50 percent of its Grade A milk receipts is distributed on wholesale and retail routes as Class I milk should not be considered as being primarily in the business of fluid milk distribution and the pooling of milk at such plant obviously would dissipate the marketwide proceeds from the sale of Class I milk.

A distributing plant from which 80 percent or more of its receipts of Grade A milk is distributed in fluid form outside the defined marketing area would not be substantially and sufficiently associated with the Central Illinois market to be subject to full regulation and to participate in the marketwide pool. The major portion of the fluid milk business at such plants is in areas where the competition for fluid sales is primarily from other unregulated plants or from plants regulated under other orders. The full regulation of such plants could place them at a competitive disadvantage in supplying other areas with which they are more closely identified.

To provide for the full regulation of plants with less than 20 percent of their Class I milk distributed in the marketing area would not be feasible in this market. The adoption of a lower percentage in the presence of the relatively wide distribution patterns of some distributing plants serving this area would extend unduly and unnecessarily the scope of the regulation. On the other hand, use of a higher percentage of sales within the marketing area as a means of further reducing the scope of regulation would excuse from the regulation plants which have substantial sales in the market, and thus have an important influence on the maintenance of returns to all dairy farmers who serve as the primary sources of supply for this market. Likewise, a further reduction in the size of the marketing area would expose an unreasonable proportion of the total fluid milk sales made from regulated plants to competition from unregulated milk.

Distributing plants serving the Central Illinois marketing area are supplied in large measure with milk directly from nearby dairy farms. Additional milk from receiving stations or supply plants is received, however, at numerous local plants. The delivery of 50 percent or more of the monthly receipts of milk from dairy farmers to distributing-type plants serving the marketing area (or to governmentally operated institutions or facilities in the marketing area) will identify those supply-type plants which establish substantial association with this market. The greatest need for milk from supply plant sources is during the period August through January. Therefore, for a supply-type plant to be eligible for continuous pooling throughout the year it should be required that 50 percent of receipts be shipped in each of the months of August through January.

During other months of the year supplies of milk received at distributing plants directly from producers normally will be adequate to supply most of the Class I requirements of distributing plants in this market. It would be more economical in these months to leave a large portion of the more distant, reserve milk at country supply plants for manufacturing, or for movement therefrom directly to manufacturing outlets. Thus, delivery performance requirements may be omitted in such months for those

plants which have established close association with the market.

The proposed pool plant definition in conjunction with the definition of marketing area will bring under full regulation those plants which, and the milk of those dairy farmers who, have an essential and substantial function in supplying this area with an adequate and dependable supply of fluid milk. Any plant, regardless of its location, will have equal opportunity to comply with the standards and have its producers share proportionately in the total Class I sales for the market through the marketwide pool. Whether or not plants and dairy farmers become associated with the pool will depend on the economic considerations with which they are confronted such as prices, transportation costs and alternative outlets. On past record those supply plants which have been the principal sources of supplementary milk should not have difficulty meeting these requirements.

Some fluid milk is disposed of in the marketing area from plants which are fully subject to the classification, pricing and pooling provisions of other Federal orders. It is not necessary to extend full regulation under this order to such plants, which dispose of a major portion of their receipts in other regulated marketing areas. To do so would subject such plants to duplicate regulation. Provision should be made, therefore, to exempt such plants from regulation under this order, except for the filing of reports with the market administrator with respect to receipts and utilization of milk at such plants in order that he may complete his verification of the uses of milk.

The term "route" should be defined to distinguish between the various methods of disposition of Class I milk. This definition will facilitate the application of other order provisions. The term refers specifically to the method by which Class I milk is distributed to wholesale and retail customers. It does not apply to movements of milk between plants.

Handler. The term "handler" should be defined to include the operator of an area plant, and any qualified cooperative association with respect to milk of producers caused to be diverted (on a limited basis) from a pool plant to a nonpool plant for the account of the association.

The term "handler" is used to identify those persons who are responsible for reporting their receipts and utilization of milk and on whom financial obligations are imposed by the order. Reports from the operators of all area plants are necessary to determine the status of their plants as pool or nonpool plants, and to compute their respective obligations. Efficient marketing of milk will be promoted by providing a means for cooperative associations to divert to nonpool plants producer milk not needed at pool plants and to assume responsibility for the accounting and continued pooling of such milk.

Producer-handler. The term "producer-handler" should include a person who operates a dairy farm and a distributing plant and who during the month receives no milk or fluid milk products from other dairy farmers or from nonpool plants.

There are relatively few producer-handlers in the Central Illinois area. Their enterprises are relatively small and may be described as family-type operations. Their sales of milk represent a minute proportion of the total fluid milk sales in the area. There is no indication that the sale of milk by producer-handlers has had a disrupting effect on the orderly marketing of milk in this area. Accordingly, it is not necessary at this time to subject their milk to full regulation to effectuate the declared purpose of the Act.

The exemption from pricing and pooling of such family-type operation should not permit other operations to masquerade as producer-handlers and so to abuse the exemption to the detriment of producers and the effectiveness of the order. It is appropriate, therefore, to provide that to maintain producer-handler status the maintenance, care and management of the dairy animals and other resources necessary to produce milk and the processing, packaging and distribution of the milk shall be the personal risk of the person involved. The term producer-handler is not intended to include any person who does not accept complete responsibility and risk for the operation of the plant in which the milk of his own production is processed and bottled for sale. There is no practical distinction in function between a plant where milk may be "custom bottled" for a dairy farmer and the plants of handlers who buy milk from producers. The activities of any dairy farmer in distributing milk "custom bottled" may be compared with that of the "vendor" or "sub-dealer" who buys milk in packaged form from a fully regulated handler for route distribution to consumers.

The producer-handler should be required to make reports of his receipts and utilization as the market administrator deems necessary to verify the continuing status of such person as a producer-handler and to facilitate the accounting and verification of transactions which may involve other handlers also.

Producer. The term "producer" should be defined to include any dairy farmer who produces milk on a farm approved by responsible health authorities for the production of milk for disposition as Grade A milk to consumers, which is received at a pool plant (including milk diverted as provided herein).

The intent of the order is to price and pool that milk of dairy farmers which is eligible for fluid disposition and which is received at plants that qualify as pool plants. Plants distributing milk labeled as Grade A milk are required by the various health authorities having jurisdiction in the marketing area to obtain such milk from dairy farmers holding farm permits or approved by such health authorities as sources of milk for Grade A distribution. Also, reciprocal approval is recognized by the various health authorities having jurisdiction within the marketing area. Health department acceptability and delivery of milk at a pool plant are reasonable criteria for distinguising the producers of milk which is to be priced and pooled under the order from other dairy farmers. Producer-handlers should not be considered as producers for any portion of their milk since their fluid sales are exempt from pricing and pooling.

Producer milk. The term "producer milk" should be defined to include the skim milk and butterfat contained in Grade A milk produced by persons qualifying as producers which is received at a pool plant directly from such producers' farms (including milk diverted to other plants under specified conditions). The term is intended to include that milk approved for fluid disposition which is to be priced and pooled under the order. A definition of such milk provides a convenient reference for use in construction of other order provisions.

Milk caused to be moved from the pool plant where it has been received previously to another pool plant or to a nonpool plant should be considered as producer milk and retained in the pool even though it is not physically received at the first pool plant. Diversion of milk will promote efficiency in the marketing of milk temporarily not needed in the pool plant of usual receipt since it is frequently possible for such milk to be hauled directly from the farm to another pool plant or to a nonpool plant for disposition. These movements may occur frequently during the months of flush production.

Diversions of milk may be necessary also during the months of lowest production to accommodate temporary milk excesses during holiday periods or on weekends. Producer associations responsible for marketing the milk of members must be in a position, therefore, to divert some milk in all months of the year.

The diversion provisions should encourage regularity of delivery to pool plants when the milk is needed but not encourage an excessive amount of milk to become associated with the pool. Accordingly, the operator of a pool plant or a cooperative association should not be permitted to report as diverted in any month from August through March, and thus retain in the pool, that milk moved to a nonpool plant which is in excess of 12 days' production during such month.

Other source milk. The term "other source milk" should be defined as all skim milk and butterfat utilized by a handler in his operations during the month, except milk and milk products in fluid form received from pool plants, inventory of milk and milk products in fluid form at the beginning of the month, and current receipts of producer milk. The term thus defined includes all skim milk and butterfat in nonfluid milk products from any source, including those produced at the handler's plant which are reprocessed, repackaged, or converted to other products during the month and receipts from producer-handlers. Defining other source milk in this manner will provide a general category of milk at pool plants which is not subject to pricing and pooling during the current month, insure uniformity of treatment of all handlers under the allocation and

pricing provisions of the order regardless of the source of the milk, and be useful in the construction of the accounting and allocation provisions of the order.

Additional definitions such as "Act", "Secretary", "Person", "Department", "Cooperative association", "Distributing point", "Chicago butter price", "Nonfat dry milk price", and "Base zone" should be included in the order for brevity and clarity in the application of various order provisions. They are self-explanatory.

(b) *Classification of milk.* Milk and milk products received by handlers should be classified as either Class I milk or Class II milk according to the form in which, or the purpose for which, the skim milk and butterfat were used.

Milk produced for the market is disposed of in a wide variety of forms containing different proportions of skim milk and butterfat which may vary greatly from those contained in milk as it is received from the farm. There is a substantial difference between the market value of a pound of fluid skim milk and a pound of butterfat for use in a given class of utilization. Different handlers use different proportions of skim milk and butterfat within a given class and as between classes. A system of accounting for skim milk and butterfat separately, therefore, is desirable in this market to provide uniform pricing of milk to handlers in accordance with the use of its component parts of skim milk and butterfat, and for returning to producers a price in accordance with their respective uses.

Milk and milk products are received at pool plants not only from producers but also from other handlers and nonpool sources. Milk from all such sources often is commingled in the handler's plant. It is necessary to classify the skim milk and butterfat in all receipts of milk and milk products as a basis for determining the proper classification of producer milk under the classified-pricing plan.

The extra cost incurred by producers in producing quality milk and delivering it to the market justifies a price for milk for fluid consumption higher than the price of milk used in manufactured products. Milk for fluid distribution should be classified and priced at this higher level to provide the necessary incentive to producers, through the uniform price, to encourage the production and delivery of milk needed for such use plus the necessary reserve to cover daily, weekly, and even monthly fluctuations in fluid milk sales by handlers.

Class I milk should be defined to include all butterfat and skim milk (including the skim milk used to produce concentrated milk, reconstituted or fortified milk, skim milk and milk products) disposed of in various fluid forms for human consumption and any other skim milk and butterfat not specifically accounted for by the handler as Class II milk (see Class I milk definition in the attached order, § 1028.31). The products included in Class I milk are disposed of to consumers in fluid form and are required by the health authorities in the marketing area to be made from milk or milk products from approved sources.

Fluid milk products such as skim milk drinks to which extra solids have been added or concentrated whole milk disposed of for fluid use, are included in the Class I milk definition. Products such as evaporated or condensed milk packaged in hermetically sealed cans are not considered to be concentrated milk.

Milk in excess of Class I uses at any time must be manufactured by the handler or disposed of to other plants for processing into manufactured products. These products are less perishable than Class I milk items and must compete in the market place with similar products made from unapproved milk. Milk so used should be classified as Class II milk and priced according to its value for use in such products. Accordingly, Class II milk is defined to include all skim milk and butterfat used to produce manufactured milk products, in inventory of fluid milk items, disposed of for animal feed, in shrinkage and dumped (skim milk only). Class II milk would include the skim milk and butterfat used to produce such products as butter, cheese (including cottage cheese), dried milk and skim milk, serated cream products, ice cream, ice cream mix, other frozen desserts and mixes, evaporated or condensed milk, and sterilized products packaged in hermetically sealed metal containers. Cream placed in storage and frozen for commercial use should be Class II milk because such cream is primarily converted into for ice cream and other manufactured products. Frozen cream removed from storage and other Class II products from any source, including those produced at the plant, which are repackaged, reprocessed and converted to another product in the plant during the month, should be considered as a receipt of other source milk during such month and assigned first to Class II milk under the allocation procedures hereinafter provided.

Limited quantities of excess skim milk and certain fluid milk items, such as route returns, may need to be disposed of by handlers as animal feed. Disposition for animal feed as Class II milk affords a means of disposal of certain items which may not be profitably utilized or disposed of for any other purpose. It is sometimes necessary, also, for handlers to dispose of small volumes of skim milk by dumping. Such skim milk will be classified as Class II milk if the handler reports to the market administrator, in the manner prescribed by the order, the dumping date and amount to be dumped, or if required by the market administrator, provides an advance notice of dumping which will afford the market administrator reasonable time to check such amount prior to dumping. No provision should be made for classifying as Class II milk, butterfat which may be dumped. Butterfat can be accumulated in the form of cream and stored to make possible efficient manufacture or movement to manufacturing outlets.

Because plant loss represents a disappearance of milk for which the handler must account but for which no direct return is realized by the handler, shrinkage should be considered as Class II milk to the extent that the amount is reasonable and is not the result of incomplete or faulty records. A maximum shrinkage allowance of one-half percent of the total volume of milk physically received from producers at the pool plant should be provided with an additional allowance of one-and-one-half percent to the pool plant which processes such milk. Plants operated in a reasonably efficient manner, for which accurate records are maintained, should not have total plant loss in excess of the maximums provided. Any shrinkage shown by plants in excess of these respective maximums should be classified as Class I milk. This is reasonable and necessary to strengthen the classified pricing plan and to encourage the maintenance of adequate records and the efficient handling of producer milk.

In order to determine the amount of shrinkage associated with the handling of producer milk, recognizing the different functions performed at pool plants, a method for the proration of shrinkage is necessary. Provision should be made, therefore, to prorate gross shrinkage at pool plants to milk physically received from producers, net receipts from other pool plants and other source milk. Limited shrinkage may be expected in the handling of other source milk which is not received in bulk fluid form. To prorate shrinkage on the basis of total other source milk, which would include all manufactured products that may be reprocessed in the plant during the month, would associate an unreasonable proportion of the shrinkage with other source milk, particularly when the skim milk equivalent basis of accounting is followed. Skim milk and butterfat in manufactured products are accounted for on a "used-to-produce" basis, and any processing loss involved is included in the amount of skim milk and butterfat reported as used. The proration of shrinkage to other source milk, therefore, should be on the basis of such milk received in bulk fluid form.

To avoid duplication in shrinkage on interpool plant movements of milk, the proration of shrinkage is based on the amount received in excess of the amount transferred to other pool plants. The allowance on milk diverted between pool plants should accrue to the pool plant where physically received. On milk received at a pool plant and transferred in bulk to another plant the transferor-plant should be permitted actual shrinkage up to a maximum of one-half percent thereof. No shrinkage should be allowed on producer milk diverted to nonpool plants.

The accounting for skim milk in manufactured products should be based on the pounds of fluid skim milk required to produce such products. The skim milk and butterfat content in most products received and disposed of by handlers can be ascertained through recognized testing procedures. Certain products, in the form of condensed skim milk and other concentrated items, present a more difficult problem of accounting since

some of the water contained in the milk has been removed. The respective amounts of skim milk and butterfat represented by these products can be ascertained through appropriate plant records if manufactured in a pool plant. In the absence of adequate records, and in the case of such products received from other plants, it is necessary to determine the amounts of skim milk and butterfat represented by the use of standard conversion factors.

Condensed skim milk or nonfat dry milk may be used for reconstituting certain fluid milk items or to fortify skim milk drinks. The solids so derived are required by the applicable health regulations to be made from Grade A milk and therefore should be classified as Class I milk when disposed of in fluid items, in the same manner as all other milk solids in Class I milk. There is no apparent reason why one portion of the nonfat milk solids contained in Class I items should be classified differently from another portion. The pounds of skim milk disposed of in any reconstituted or fortified fluid milk item therefore are accounted for as the amount of nonfat milk solids contained in such product plus the water content normally associated with such solids in the form of whole milk. To promote uniformity in the cost of milk among handlers and to effectuate the allocation of current receipts of producer milk to Class I utilization to the fullest extent, the skim milk in all other source milk should be accounted for on the fluid skim equivalent basis.

Skim milk and butterfat used to produce manufactured products should be considered to be disposed of when so used. The sale of such products need not be shown on monthly reports of receipts and utilization. Handlers must maintain stock records on such products, however, to permit proper verification of utilization. Class II products from any source used in the plant during the month must be reported as a receipt of other source milk. This will assist further to maintain priority of assignment of current receipts of producer milk to Class I utilization.

Each handler is held responsible for a full accounting of all his receipts of skim milk and butterfat in any form. A handler who first receives milk from producers is responsible for establishing the classification of, and making payment for, such milk. Fixing responsibility in this manner is necessary to administer effectively the provisions of the order.

Except for such limited quantities of shrinkage, which under certain conditions (already described) may be classified in Class II, all skim milk and butterfat for which the handler cannot establish utilization should be classified as Class I milk. This provision is necessary to remove any advantage to handlers who fail to keep complete and accurate records and to assure that producers receive full value for their milk. Thus, the burden of proof is placed on the handler to establish the utilization of any milk as other than Class I milk.

Interplant movements. Except for certain specified Class II uses, skim milk and butterfat in fluid form should be classified as Class I milk when disposed of from the pool plant. Some fluid items, however, may be disposed of to other plants for conversion into Class II milk products. Under specified circumstances classification may and should be determined according to utilization in the plant to which transferred or diverted.

Class I milk items transferred, or producer milk diverted, by a handler from a pool plant to another pool plant should be classified as Class I milk unless utilization as Class II milk is claimed for both plants on the handler reports submitted for the month to the market administrator and sufficient Class II utilization is available at the transferee-plant for such assignment after prior allocation of shrinkage and other source milk. If other source milk had been received at the transferor-plant during the month, the skim milk and butterfat moved should be classified at both plants so as to allocate the greatest possible Class I utilization to the producer milk at both plants.

Similar items transferred or diverted from a pool plant to a producer-handler should be Class I milk because the milk may be presumed, by the nature of producer-handler operations, to be needed for fluid disposition. Provision should be made for any milk received at a pool plant from the farm or plant of a producer-handler to be considered as other source milk at the pool plant. Without these provisions, producer-handlers could depend on producers under the order to carry the necessary reserve supply associated with their Class I sales without sharing such sales with producers, thus affecting adversely the proceeds due pool producers.

Milk, skim milk or cream in bulk transferred or diverted from a pool plant to a nonpool plant located less than 300 miles (by nearest hard-surfaced highway) from the County Courthouse in Bloomington, Illinois, should be classified as Class I milk unless the following conditions are met:

(1) The handler reports such milk as Class II milk, (2) the operator of the nonpool plant maintains and makes available, as requested by the market administrator, his books and records for verification of Class II utilization, and (3) the Class I milk (as defined in the order) disposed of from the transferee nonpool plant does not exceed the receipts of skim milk and butterfat in milk received during the month from dairy farmers approved to supply Grade A milk who are regularly associated with such plant plus receipts of packaged fluid milk items from plants fully regulated by other Federal orders (including fluid cream from Chicago or Milwaukee order plants where classified as "Class II milk" under such orders).

If Class I milk disposed of from the nonpool plant exceeds such sum of receipts, provision should be made to classify as Class I milk an amount of the transferred or diverted milk equivalent to such difference. Such remaining Class I sales, however, should not result in duplication relative to the classification of milk transferred to the nonpool plant from plants regulated by this and other Federal orders. Therefore, the amount of bulk milk moved to such plant and classified as Class I milk from any regulated market should be not less than that market's pro rata share of the remaining Class I sales in such nonpool plant. This method of classification and proration of Class I sales provides a reasonable basis for assigning Class I milk among markets in the case of movements to a common nonpool plant from more than one regulated market.

Milk and skim milk moved by handlers to nonpool plants located more than 300 miles from the County Courthouse, Bloomington, Illinois, should be Class I milk. If milk or skim milk moves such distances in fluid form it normally would not be for Class II uses. Adequate manufacturing facilities for local supplies are available and the Central Illinois handlers normally dispose of reserve milk to manufacturing facilities located within a 300 mile radius from the market. It would not be administratively feasible, or economically justifiable, for the market administrator to be required to verify the ultimate uses of shipments made to nonpool plants beyond this prescribed area. The automatic classification as Class I milk will preclude the necessity for such verification. Cream is shipped greater distances from this market on occasion, however, for ice cream manufacture, and provision is made for a Class II classification regardless of distance involved if with prior notice of shipment furnished to the market administrator, the cream is labeled and invoiced for manufacturing use only and the recipient plant is not engaged in the route distribution of milk.

The recommended method of classifying transfers and diversions of milk to nonpool plants will facilitate the primary function of such provisions of promoting an orderly disposal of reserve supplies, and at the same time assure that milk moved to nonpool plants will be classified and priced in accordance with the form in which, or the purpose for which, it is used. This will provide a significant degree of protection to the market supply by removing an incentive to withdraw milk during periods of short supply.

Allocation. The class prices apply only to producer milk. It is necessary, therefore, when skim milk or butterfat other than that in producer milk is received by the handler, to determine the amount used in each class to be assigned to the producer milk.

Producer milk represents the primary and regularly available supply for fluid consumption in the marketing area. Current receipts of producer milk should be given priority over other source milk in the allocation of Class I utilization at pool plants in order to insure regularity of supply and for effective application of the classified pricing plan. If the order permitted handlers to obtain unpriced, other source milk for Class I uses whenever it was advantageous to do so while producer milk in the plant was assigned to Class II, returns to producers at a given level of class prices would be adversely affected, and the order would not be as effective in carrying out the purpose of the Act of insuring an adequate

and dependable supply of milk at reasonable price levels.

In general, the allocation procedure requires that the skim milk and butterfat, respectively, remaining in each pool plant after making the following deductions from gross utilization starting with Class II milk, be assigned to producer milk unless otherwise noted:

(a) Other source milk in the form of Class II milk products;

(b) Other source milk in the form of fluid items, except that received in consumer-type packages and priced as Class I milk under another Federal order;

(c) Other source milk in consumer-type packages subject to Class I pricing provisions of another Federal order (deductible from Class I milk);

(d) Receipts from other pool plants (according to classification);

(e) Beginning inventory; and

(f) Overage.

Separate allocation is provided for other source milk received under varying circumstances to facilitate the application of the compensatory payment provisions of the order. Provision is made to allocate to Class I milk those packaged fluid milk items subject to the Class I pricing provisions of another Federal order. This will have the effect of giving the same treatment to milk moved from a plant under another Federal order whether such milk is distributed directly to consumers in the marketing area from such plant, as is sometimes the case in this market, or is imported through a pool plant.

For accounting purposes ending inventory of fluid milk items is classified as Class II milk. Beginning inventory of such products is considered as a receipt and therefore must be subtracted in the allocation procedure. This is done following the subtraction of transfers from other pool plants so as not to interfere with the mechanics of classifying such transfers, and to facilitate the reclassification of inventory which may be assignable to Class I milk during the month.

(c) *The determination and levels of class prices—Class I price.* For the first 18 months, the minimum Class I price per hundredweight each month for milk containing 3.5 percent butterfat received at plants located in the "base zone" (counties of Christian, Coles, Cumberland, Logan, Macon, Menard, Moultrie, Sangamon and Shelby) should be the Chicago Federal order 55–70 mile zone Class I price for the month plus 40 cents. The minimum Class I price should be 6 cents less at each plant located in Champaign, DeWitt, Douglas, Edgar, Ford, Fulton, Knox, Livingston, McDonough, McLean, Marshall, Mason, Peoria, Piatt, Stark, Tazewell, Vermilion, Warren and Woodford Counties. The minimum Class I price at regulated plants located outside the marketing area should be the base zone price minus appropriate location adjustments (discussed below).

At the hearing, several interested parties proposed Class I price provisions for a Central Illinois order. Proponent producers proposed a formula which would result in a Class I price for the base zone approximately 54 cents higher than the minimum Class I price for the month announced for the 55–70 mile zone under the Chicago order. Certain proprietary handlers offered various price proposals under which the Class I price for such base zone would be established at 20 cents, or less, above such Chicago minimum Class I price. Another witness testified that the Central Illinois Class I price should not be higher than the Chicago order Class I price plus the cost involved in moving milk from the Chicago area to Central Illinois area plants.

It is concluded that a reasonable minimum level of Class I prices for the Central Illinois market would be one which, in conjunction with the Class II prices hereinafter concluded to be appropriate, will result in returns to producers who are, or who may become, regular suppliers of this market sufficient to induce and maintain an adequate, but not excessive, supply of quality milk to meet the Class I requirements of consumers in the marketing area, including the necessary reserves to meet normal fluctuations in sales. Class I prices should be in alignment also with those prevailing in other nearby markets and should not be fixed at levels which exceed the prices of milk of acceptable quality and regular availability obtained from alternative sources.

The Central Illinois market currently is one of deficit supply, i.e., local dairy farmers do not produce sufficient Grade A milk to satisfy the total Class I milk requirements of the market. Springfield and some other principal communities within the Central Illinois area are served at wholesale and retail with substantial quantities of packaged Class I milk from a pool plant under the Chicago order located at Chemung, Illinois. Other Chicago plants also distribute milk on routes in the Central Illinois area. Also, handlers whose plants are located within the Central Illinois area import significant volumes of Grade A milk from distant, alternative supply sources, such as Madison and Platteville, Wisconsin.

The average cost of transporting bulk milk from several supply sources to principal points in the marketing area is approximately 1.5 cents per hundredweight for each ten miles traveled. While transportation costs vary depending on many factors, including size of load, such rate is reasonably representative of the per hundredweight cost of transporting bulk milk to principal communities in the Central Illinois area from distant plant sources and, as later discussed, is adopted as an appropriate rate of location adjustment for pricing milk in this market.

The hauling cost to Springfield from Chemung computed on the basis of the bulk milk rate indicated above would be 33 cents, although it might be expected that the hauling cost on packaged milk would be slightly higher.

The plant at Madison, Wisconsin, is located within the heaviest milk producing region of the country. It would not be reasonably assumed that an alternative supply of Grade A milk (or its equivalent) for the Central Illinois area could be obtained with regularity at lesser cost from any other region. An appropriate basis for determining the level of minimum prices to dairy farmers for bottling quality milk at the Madison location is the applicable zone price for Class I milk pursuant to Chicago milk order No. 41. Not including any charge for handling, the cost of transporting milk to plants in the base zone of the Central Illinois marketing area from Madison, Wisconsin, may be computed, on the basis of the same rate, at approximately 40 cents per hundredweight.

A level of Class I prices for plants located in the base zone of 40 cents over the Chicago Federal order 55–70 mile zone minimum Class I price for the month is warranted in light of the various costs and prices associated with the importation of milk from alternative areas of supply. Pursuant to this formula, the 1958 annual average minimum Class I price would have been $4.12, and the 1959 price would have been $4.08, at plants in the base zone. (Official notice is taken of the Chicago Federal order Class I price announcements for the months of August through December 1959.) For further comparison, the St. Louis minimum Class I prices for 1958 and 1959 averaged $4.09 and $4.10, respectively, for the zone in which Springfield (in the base zone) is located.

The Class I price at plants located in those counties of the marketing area not a part of the base zone should be 6 cents less than the Class I price for plants located in the base zone. The counties not included in the base zone are somewhat closer to alternative supply sources. While handlers with plants located in the lower price zone of the marketing area (particularly in Peoria, Pekin and Bloomington) distribute milk in certain counties in route competition with handlers operating plants located in the base zone, the cost of moving milk from Peoria, Pekin and Bloomington to the main areas of competition with base zone milk should offset the difference in Class I price levels. At regulated plants outside the marketing area Class I prices also will be adjusted according to location.

It is concluded that the interests of dairy farmers serving this market will be promoted by the establishment of a uniform basis of pricing and pooling, regardless of source or distance, for all Grade A milk purchased by handlers for fluid distribution. Such basis of pricing should take into account, however, not only the immediate supply and demand conditions but also the prevailing minimum prices determined, under similar price criteria, as reasonable in nearby markets both north and south of the Central Illinois marketing area. To provide a higher level of Class I prices, as proposed by proponent producers, would expose the Central Illinois producers and handlers to possible loss of market sales since handlers under other Federal orders are in position to, and do, distribute milk on routes in various communities in Central Illinois. A lower level of Class I prices than that adopted would represent less than minimum economic value of the milk.

Class II price. The Class II price per hundredweight of milk, containing 3.5 percent butterfat should be the basic formula price for the month.

The proponent producer association proposed the type of formula which is adopted herein as an appropriate formula for pricing Class II milk. The same formula, which represents the average pay price of 12 selected Wisconsin and Michigan condenseries, is used to determine the Chicago order Class III price and for the 12-month period ending with August 1959 resulted in a price of $3.00. (Official notice is taken of the Chicago order Class III price for August 1959.) One proprietary handler proposed the Chicago order Class IV price formula with seasonal adjustments. The average Class II price pursuant to the latter proposal would have been $2.83 for the same 12-month period. Another proprietary handler proposed a Class II price based on the average "pay price" of seven local manufacturing plants. Price data were available in the record for only six of the seven plants suggested. The average of the pay prices of such plants for the 12-month period was $2.96.

Some milk in excess of actual Class I requirements is necessary to maintain an adequate supply of milk on an annual basis. The price for such excess milk should be maintained at the highest level consistent with its value for use in manufactured products. The price should not be set at a level that will encourage handlers to procure supplies of Grade A milk intended for manufacturing purposes.

The average price paid by Illinois condenseries during 1959 was $3.15 per hundredweight of milk containing 3.72 percent butterfat, or, adjusted by the Class II butterfat differential contained herein, approximately $3.00 for milk of 3.5 percent butterfat. (Official notice is taken of such prices published for July and August 1959 in the "Evaporated, Condensed, and Dry Milk Report", A.M.S., USDA.) This average condensery pay price approximates the basic formula price computed for the same period.

For the most part the relatively small volume of Grade A milk received from dairy farmers which is not disposed of for Class I purposes is used in the manufacture of cottage cheese and ice cream. There is no reason to believe from the record that milk for these uses, or in any other main manufacturing use to which milk in this market might be put, would be worth less than milk purchased by condenseries. It is concluded that the Class II price each month should be the basic formula price.

Butterfat differentials. Skim milk and butterfat are accounted for separately for classification purposes. Class and uniform prices are established on a "standard" test of 3.5 percent butterfat. Therefore, it will be necessary to adjust Class I and Class II prices to the average butterfat for the class, and uniform prices to the tests of milk delivered by individual producers, to reflect differences in value due to variations in butterfat content from the 3.5 percent standard.

The values resulting from multiplying the average price of 92-score Chicago butter by 0.125 for Class I milk and 0.115 for Class II milk will provide an appropriate basis for adjusting Class I and Class II prices for each one-tenth percent variation in butterfat content. The resulting differentials should be in reasonable alignment with those in orders regulating the handling of milk in nearby Federal markets where milksheds are adjacent to or overlap that of the Central Illinois market.

The butterfat differential to producers should correspond to the weighted average of the values of butterfat used in the two classes. This follows the principle of uniform prices to all producers and will reflect promptly for pricing purposes any changes in the use of butterfat in each class.

Location differentials. A schedule of location differentials should be provided to adjust Class I prices according to the location of the plant from which milk is moved to the marketing area.

Milk at farms or at plants has a progressively lower value with respect to the Central Illinois market as such farms or plants are located farther from the market. This difference in value is related principally to the cost of transporting milk from the respective locations to the market. To the extent that milk is received from producers at a distant plant and brought to the marketing area by a handler, the handler has assumed a transportation cost which otherwise might be borne by producers. Accordingly, the Class I price should be adjusted downward at such plant to compensate the handler for the cost of hauling milk to the marketing area, and to provide uniformity in Class I pricing to handlers at the marketing area. Such application of location adjustments results in the pricing of Class I milk at all plants in relation to its value for consumption in the marketing area after taking the transportation factor into account.

The order should contain appropriate provisions to recognize such differences in value at different locations in relation to the market. This may be accomplished by including a schedule of location adjustments applicable to plants in accordance with their distances from Springfield and Toledo, Illinois, whichever is nearer the particular plant.

It is economically more feasible to supply the fluid milk needs of the market from those farms or plants nearest the market before bringing in milk from more distant plants. Location adjustments at supply-type plants should apply, therefore, to that skim milk and butterfat moved to a pool plant in fluid form which is assignable to Class I milk, after first assigning to the available Class I in the transferee-plant the milk received directly from producers and receipts of Class I milk from other pool plants at which no adjustment applies. The location adjustment provisions should apply also to Class I milk disposed of in the marketing area on routes from distant distributing plants.

An average location differential rate of 1.5 cents for each 10 miles, or major fraction thereof, should be used for adjusting Class I prices. As previously stated, this rate reflects experience relative to the costs of moving milk to the marketing area from distant points by efficient means.

To maintain equity in pricing among distributing handlers in the presence of an irregularly-shaped marketing area in relation to the most practical basing points, a location differential of 6 cents per hundredweight is employed for all plants located in the marketing area but outside the defined "base zone" (see marketing area definition). Also, for similar reasons, no location adjustments are applied at plants located outside the marketing area and less than 70 miles from the basing points of Springfield and Toledo. This pattern of price adjustments provides reasonable uniformity of Class I prices at various plant locations, whether inside or outside the marketing area, in relation to the basing points.

No location adjustments should be allowed to plants on Class II milk. Because of the low cost per hundredweight of milk involved in transporting the finished products of this class, there is little difference in the value of milk for manufactured uses associated with the location of the plant receiving the milk from dairy farmers.

Payments on unpriced milk. The order should provide for payments to the producer-settlement fund with respect to other source milk allocated to Class I at pool plants and for similar payments by partially regulated nonpool plants on Class I milk disposed of on routes in the marketing area. The rate of payment on such milk each month should be equal to the difference between the Class I and Class II prices, except that for the months of August through January, the rate of payment on other source milk qualified for labeling as Grade A milk should be the difference between the Class I and uniform price to producers.

Basically, all other source milk which might be utilized for Class I milk in the marketing area is produced as part of a supply intended primarily to meet the demand for milk for fluid consumption in some area other than the Central Illinois marketing area or produced for manufacturing outlets, but not used for such purposes in the area for which it was produced. If part of the regular supply of another fluid milk market, it could be only milk in excess of the amount needed for fluid disposition in such market.

If unregulated plant operators were allowed to dispose of surplus milk in the regulated marketing area, either through pool plants or directly to consumers, without some compensating or neutralizing provision in the order, the disposition of such milk, because of its price advantage relative to fully regulated milk, would displace the fully regulated milk in Class I uses in the marketing area. The plan of Congress as contemplated under the Agricultural Marketing Agreement Act of 1937, as amended, of returning a reasonable level of prices to the producers of milk for the regulated marketing area would be defeated. Inefficiency in the marketing of milk would be encouraged because there would be incentive for the regulated handlers to

obtain milk for Class I uses not from the regular and normal sources of supply but from sources of supply generated solely as a result of the price advantage created for unregulated milk by the regulation itself. Providing for some method of compensating for, or neutralizing the effect of, the advantage created for unregulated milk is therefore a necessary provision of this order.

There may be other situations in which plant operators may find it economical or desirable to make shipments of small quantities of milk to the marketing area and yet it would be neither necessary nor desirable in terms of effective regulation to bring the plants fully under regulation. This would be true with respect to shipments of milk to pool plants for the purpose of converting it into manufactured products. Also, milk may be disposed of in the regulated marketing area as Class I milk from plants which are not primarily, or even regularly, engaged in supplying the marketing area. If relatively small, incidental or accidental shipments of milk into the marketing area would bring under total regulation all the milk at the plant from which such shipments are made, undue hardship could result to the operator of such plant and for the farmers delivering the milk involved. Compensatory payments are necessary to provide a means by which full regulation of the handling of milk under these conditions may be avoided and, at the same time, the integrity of classified pricing and marketwise equalization of returns which are necessary to insure orderly marketing in this area may be maintained.

The proximity of this market to sources of milk not under a classified-price plan and the opportunities available to obtain milk at prices reflecting its value as surplus (approximating the Class II price under the order) must be taken into account in this connection. The rate of payment on other source milk allocated to Class I generally should be the difference between the Class II price and the Class I price adjusted (by the same rate as is applied at pool plants) to the location of the plant at which such other source milk was received from farmers. During the months of August through January, however, the milk supplies in this region tend to be somewhat shorter than for other months. It is not likely that other source fluid milk of Grade A quality will be readily available to the market at surplus prices. It reasonably may be expected that during such months such milk would not be available from unregulated sources at prices appreciably less than the level of the uniform price under the order. Therefore, compensation payments during these months on other source milk eligible for Grade A labeling should be the difference between the uniform price to producers and the Class I price (both prices adjusted to the location of the plant from which such other source milk is supplied). The relationship between the supply and demand for milk in the market in the August through January period tends to fluctuate from year-to-year according to marketing conditions. These conditions may be expected to prevail generally in surrounding markets which are potential sources of supply of unregulated milk. Thus, the rate of compensation payment based on the difference between Class I and uniform prices will adjust itself automatically in these months in accordance with the relationship of Class I milk to the total milk pooled and will tend to reflect conditions in the area from which other source milk of this kind may be obtained. The rates herein proposed are those which will best effectuate the Act under current marketing conditions in this area.

Other source milk in the form of concentrated milk products should be considered to be from a source at the same location as the plant where used. In the case of these products it would be extremely difficult and at times impossible to determine the plant of origin. They may pass through several hands between the manufacturer and ultimate user and the output of many plants may be commingled by a broker or jobber from whom the handler acquires the products. The administrative difficulties involved make it impracticable to adjust the payments associated with any such products based on location of source.

All funds collected from such compensatory payments should be added to the producer-settlement fund. The pool handler receiving other source milk on which a payment accrues should be obligated to make the compensatory payments to the producer-settlement fund. There will be no difference in actual amount so paid for milk whether the payment is required of the pool handler or of the operator of the unregulated plant from which the other source milk was obtained. Because the pool handler makes the actual distribution of the milk in the marketing area, and because he reports the utilization to the market administrator, he is, from an administrative view, the logical person to make the payment.

The integrity of the regulation can be maintained by providing an alternative method of determining compensatory payments at a distributing plant which has sales of Class I milk in the marketing area on routes but which fails to qualify as a pool plant. Subject to proper reporting and the maintenance of adequate records, the operator of such plant should be given an opportunity to choose between payment into the producer-settlement fund of (1) an amount equal to the volume of Class I milk disposed of in the marketing area at the same rates as apply to unpriced other source milk allocated to Class I at pool plants, or (2) the amount by which total payments to dairy farmers at such nonpool plant are less than the total value of the same milk computed on the basis of the classifications and prices applicable at pool plants.

If the partially regulated handler elects to make payments under the first option, the regulation would be protected in the same manner and to the same extent as is provided with respect to compensatory payments on other source milk at pool plants.

If such handler chooses to pay the full utilization value of his milk either directly to his own farmers or by a combination of payments to his farmers and to the producer-settlement fund, he will not have any advantage in terms of the minimum order class prices on his sales of Class I milk in the marketing area. His total minimum obligation for milk will be determined in exactly the same manner as if he were a fully regulated handler.

Under this option, the operator of the nonpool plant would be required to file a complete report of receipts and utilization. From such reports, subject to audit, the value of his milk would be computed at the class prices, adjusted for location and butterfat content, in the same manner as for a pool plant. From this utilization value the market administrator would subtract the payments to the Grade A dairy farmers who constitute the regular supply of milk for the nonpool plant as verified from the producer payroll. Only such payments would be allowed as had been made to such farmers by the 20th day following the end of the month. The payment would be the gross amount paid to such farmers for milk at the nonpool plant. Bona fide deductions for supplies and services, such as hauling, would be allowed as authorized by the dairy farmer.

Affording the latter option to partially regulated nonpool plants will protect adequately the regulatory plan in this market. None of the operators to which this option may apply regularly obtain milk for such plants from dairy farmers located in a supply area that overlaps to any significant extent the supply area of plants to be fully regulated under the order. The option to pay directly to dairy farmers who regularly supply such nonpool plants with milk at the full utilization value of such milk in accordance with the order, and therefore, will not place the operators of pool plants at a competitive disadvantage in the procurement of their milk supply. Also, under the present organization of the market there will be no significant diversion of the revenue derived from the Class I sales in the marketing area to farmers only incidentally associated with the market at the expense of pool producers of milk, for which minimum class prices are established, who are relied upon to produce an adequate and dependable supply of approved milk for the marketing area.

The assessment of administrative expense should depend upon which option is chosen by the nonpool distributor. If he elects to pay the difference between the class prices on his in-area sales he should be required to pay administrative expense only on such quantities. If he elects the payment based on the utilization value of his milk he should pay administrative expense on his entire receipts of milk from Grade A dairy farmers and any other receipts allocated to Class I milk the same as is required of pool handlers. Obviously, the latter option necessitates as much verification of receipts and utilization by the market administrator as is the case at a pool plant. Such verification might well in-

clude the checking of weights and butterfat tests of receipts from dairy farmers and products sold, as well as a complete audit of the books and records of such plant operations.

A proposal was made that no compensatory payments be required on other source milk received at a pool plant during any month when receipts of producer milk are below 110 percent of Class I sales in the preceding month. Such a provision would not be to the best interest of the market because the way would be open for handlers to limit their purchases of producer milk in the current month and thereby bring about an uneconomical procurement pattern for the market and an uncertain marketing situation for local dairy farmers.

(d) *Distribution of proceeds to producers.* All Grade A milk produced for the marketing area is eligible for sale in fluid form as milk and cream in all parts of the marketing area. However, at times relatively greater proportions of the reserve milk supply are concentrated in certain plants than in other plants. This situation would increase in the future if certain supplies now considered temporary find definite and continuing association with this market. The use of the marketwide pool, under which the lower value of reserve supplies are distributed proportionately among all qualified producers, will permit producers to receive a uniform price (with appropriate adjustments for location and differences in butterfat content of milk produced) and at the same time permit, either at local plants or at country plant locations, the efficient handling of milk when it is not needed for fluid distribution. A marketwide pool also will assist all interested handlers to obtain the necessary supplies to handle large blocks of bid business, such as that offered by military installations and other public institutions, without upsetting the market at such time as this type of business might shift from one handler to another. The uncertainty for producers created when a handler's projected requirements decrease markedly may be an important contributor to unstable marketing conditions.

The facilities in the plants of Central Illinois handlers for handling reserve supplies of producer milk vary but on the whole are quite limited. Some pool plants are equipped to make such products as cottage cheese, butter, and ice cream, and in some cases receive ungraded as well as graded milk for these uses. None of the pool plants is equipped to make evaporated milk, cheddar cheese or other manufactured products which are frequently the principal use outlets for the seasonal reserve supplies of fluid markets. Because many plants do not have facilities for processing all their reserve milk, the adoption of individual-handler pools, under which plant operators on a Class I basis could pay higher prices to producers than those who assume responsibility for disposing of temporary and seasonal reserve supplies of the market, automatically would deter handlers from handling such milk or from equipping their plants for that purpose. The burden of carrying the temporary and seasonal excesses of milk would continue to be shouldered by only a part of the producers who share in the year around Class I sales of the market.

A marketwide pool will aid the market further by making it possible to retain qualified producers during periods of seasonal surplus (by permitting them to receive the marketwide uniform price); hence encouraging the availability of such milk to fill the Class I requirements at other seasons, and insuring stability and the efficient distribution of supplies as needed by individual handlers throughout the year.

Handler's obligation for producer milk and producer-settlement fund. Because producers will receive payment at the rate of the marketwide uniform price each month and the payment due from each handler at the applicable class prices may be more or less than he is required to pay directly to producers or to cooperative associations, a producer-settlement fund should be established to equalize this difference.

The handler's total obligation to producers is determined by applying the class prices to producer milk at his pool plants and adding the obligations, if any, resulting from compensatory payments on other source milk and from the reclassification of beginning inventory (tentatively classified as Class II milk at the end of the preceding month) which is allocated to Class I milk for the month. The order should provide a method for the determination and reclassification of inventory from producer milk to result in a cost of such milk identical with the cost of current receipts of producer milk and a determination and reclassification cost of inventory from unpriced other source milk identical with the compensatory payments on current receipts of unpriced other source milk. The allocation of inventory to producer and other source milk in the attached order follows the same allocation procedure as is used to determine the classification of producer milk. No reclassification charge will result on inventory from milk which originates from a plant under another Federal order which is priced as Class I milk under such order.

Each handler whose obligation for producer milk is greater than the amount he is required to pay producers at the applicable uniform prices should pay the difference into the producer-settlement fund and each handler whose obligation for producer milk is less than the applicable uniform price value should receive payment of the difference from this fund to enable him to pay his producers such uniform price. For administrative convenience, payments due any handler should be offset by payments due from such handler.

For efficient functioning of the producer-settlement fund a reasonable reserve is set aside at the end of each month to cover minor audit adjustments, delayed payments and other contingencies. The reserve, which is operated as a revolving fund and adjusted each month, is established in the attached order at not less than four or more than five cents per hundredweight of producer milk in the pool for the month.

As indicated elsewhere in this decision, compensatory payments received by the market administrator from any handler would be deposited in the producer-settlement fund. Such deposits would be included in the uniform price computation and thereby distributed to all producers.

Payment to producers. Each handler should be required to pay each producer on or before the 20th day after the end of each month for milk received from such producer at not less than the applicable uniform price unless payment therefor is made to a cooperative association. Provision should be made for partial payments to producers on or before the last day of each month for milk delivered during the first 15 days of such month, at not less than the Class II price for the preceding month rounded to the next lowest dollar or half-dollar.

Provision should be made for a cooperative association to receive payment for the producer milk which it causes to be delivered to a pool plant. The collection of monies with respect to milk of members and the blending of the proceeds from the sale of such milk, as provided by the Act, will tend to promote the orderly marketing of milk. Cooperative associations will be assisted in discharging their responsibility to their members and to the market. Such function can be accomplished more expediently if an association is enabled to collect payments for the sale of member milk. Each handler should be required, if requested in writing by a cooperative association which is authorized to collect payment for its member milk and which has furnished a written promise to reimburse the handler for any improper claims on the part of the cooperative, to pay such association an amount equal to the sum of the individual payments otherwise payable to such member-producers. Handlers should be required to make such payments to the cooperative association on or before the 28th day of the month for milk received during the first 15 days of the month, and to make the final settlement for milk received during the month on or before the 19th day of the following month.

Provision should be made for the handler, if authorized by the producer, to make bona fide deductions for goods or services furnished to, or for payments made on behalf of, the producer. At the time of final settlement for producer milk, the handler should be required to furnish to each producer a supporting statement showing the pounds and butterfat test of milk received from him, the rate(s) of payment for such milk and a description of any deductions claimed by the handler.

(e) *Other administrative provisions.* Certain other provisions are needed in the order to carry out the administrative steps necessary to accomplish the purposes of the proposed regulation.

(1) *Terms and definitions.* In addition to the definitions discussed earlier in this decision which define the scope of the regulation, certain other terms and definitions are desirable in the interest of brevity and to assure that each

usage of the term implies the same meaning throughout the order.

(2) *Market administrator.* Provision is made for the appointment by the Secretary of a market administrator to administer the order and to describe the powers and duties essential to the proper functioning of his office.

(3) *Records and reports.* Provisions are included in the order which notify handlers that they are required to maintain adequate records of their operations and to make the reports necessary to establish the proper classification and pricing of producer milk and payments due producers for such milk. Time limits must be prescribed for filing such reports and for making payments to producers. Dates must be established for the announcement of prices by the market administrator.

Handlers should maintain and make available to the market administrator (i) all records and accounts of their operations, including financial records, and such facilities he may deem necessary to determine the accuracy of the information submitted by the handler, and (ii) any other information upon which the classification of producer milk depends. The market administrator likewise must be permitted to check the accuracy of weights and tests of milk and milk products received and handled, and to verify all payments required under the order.

There may be instances in which a handler, wittingly or unwittingly, fails to report all receipts and/or sales of milk. In such cases, it is necessary for the market administrator to have access to the financial as well as other pertinent records as a means of discovering omissions or inaccuracies in accounting for milk under the order. The proper accounting for milk is an essential feature of an order; thus, it is necessary that the market administrator have access to any and all records which may be required for him to perform his duty properly. Broad authority is granted, in this respect, under the Agricultural Marketing Agreement Act of 1937, as amended.

It is necessary that handlers retain records to prove the utilization of the milk received from producers and proper payment therefor. Since the books of all handlers associated with the market cannot be audited immediately after the milk has been delivered to a plant, it is necessary that such records be kept for a reasonable period of time. The order should provide, however, for specific limitations of the time that handlers shall be required to retain their books and records and of the period of time in which obligations under the order should terminate. Provision made in this regard is identical in principal with the general amendment made to all milk orders in operation July 30, 1947, following the Secretary's decision of January 26, 1949 (14 F.R. 444). That decision, covering the retention of records and limitations of claims, is equally applicable in this situation and is adopted as a part of this decision.

If a handler fails to make the required reports or payments, his name should be publicly announced at the discretion of the market administrator. Such announcement is provided for by the Act, and it is concluded that its adoption will facilitate enforcement of the terms of the order.

(4) *Marketing services.* A provision should be made in the order for performance of marketing services for producers, such as verifying the weights and butterfat tests of producer milk and furnishing market information. These services should be provided by the market administrator and the cost should be borne by producers for whom the services are performed. If a cooperative association is performing such services for its member producers, the market administrator will accept this in lieu of his own service.

Orderly marketing will be promoted through a marketing services program by assuring individual producers that payments received by them for their milk are in accordance with the pricing provisions of this order and accurately reflect the weights and tests of milk delivered. Complete verification requires that butterfat tests and weights of individual producers deliveries as reported by the handler are proved to be accurate.

Dissemination of current market information to all producers will promote efficiency in the production, utilization and marketing of milk and should be included in the order as an additional phase of the marketing services program.

A maximum deduction of five cents per hundredweight should enable the market administrator to perform the various marketing services for producers. This deduction will apply only to receipts of milk from those producers for whom he renders marketing services. If experience demonstrates that marketing services can be performed at a lesser rate, provision is made for the Secretary to adjust the rate downward without the necessity of a hearing.

Any cooperative association of producers performing marketing services for its producer-members shall receive such deductions as the membership agreement authorizes, in lieu of the deduction from payments made to nonmember producers.

(5) *Expense of administration.* Each handler operating a pool plant should be required to pay the market administrator as his pro rata share of the cost of administering the order not more than four cents per hundredweight, or such lesser amount as the Secretary may prescribe, on (1) producer milk, and (2) other source milk which is classified as Class I, except other source milk subject to an expense of administration assessment under another Federal order. Handlers operating nonpool plants should be assessed, depending on the option chosen pursuant to § 1028.53 on quantities of other source milk disposed of as Class I milk in the marketing area on routes or on the total receipts of Grade A milk from dairy farmers at the plant (not subject to administrative expense under another order) and other source milk which would be classified as Class I if such plant were a pool plant.

The market administrator must have sufficient funds to enable him to administer properly the terms of the order. The Act provides that cost of administration shall be financed through assessments on handlers. One of the duties of the market administrator is to verify the receipts and disposition of milk from all sources. Equity in sharing the cost of administration of the order among handlers, including nonpool handlers, will be achieved by applying the administrative assessment in the above-described manner.

In view of the distances involved between plants and the cost of administering orders in comparable markets, a maximum assessment rate of four cents per hundredweight is necessary to meet the expenses of administration. Provisions should be made to enable the Secretary to reduce the rate of assessment below the maximum rate without necessitating an amendment to the order whenever experience reveals that a lesser rate will provide adequate revenue to administer the order properly.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. These briefs, proposed findings, and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above.

To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or to reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

(a) The proposed marketing agreement and order and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to Section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed marketing agreement and order will regulate the handling of milk in the same manner as, and will be applicable to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order

The following order regulating the handling of milk in the Central Illinois marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the proposed order.

DEFINITIONS

§ 1028.1 Meaning of terms.

(a) "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

(b) "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

(c) "Department" means the United States Department of Agriculture.

(d) "Person" means any individual, partnership, corporation, association or any other business unit.

(e) "Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(1) To be qualified pursuant to the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act", and

(2) To be engaged in making collective sales, or marketing milk or its products for its members.

(f) "Central Illinois marketing area" (hereinafter referred to as the "marketing area", except as the context indicates reference to an area regulated by another order issued pursuant to the Act) means all territory geographically located within the perimeter boundaries of the area which includes the counties of Champaign, Christian, Coles, Cumberland, Douglas, De Witt, Edgar, Ford, Fulton, Knox, Livingston, Logan, Macon, Marshall, Mason, McDonough, McLean, Menard, Moultrie, Peoria, Piatt, Sangamon, Shelby, Stark, Tazewell, Vermilion, Warren and Woodford, including all municipal corporations and institutions and military installations (wholly or partially within such area) which are owned or operated by the Federal, State or local governments, all within the State of Illinois. "Base zone" means that portion of the marketing area which includes the counties of Christian, Coles, Cumberland, Logan, Macon, Menard, Moultrie, Sangamon, and Shelby, including any such governmentally owned or operated institutions or facilities therein.

(g) "Distribution point" means any building, premises, facilities or equipment used primarily to hold or store bottled milk or milk products in finished form in transit for wholesale or retail distribution.

(h) "Plant" means the premises, buildings, facilities, and equipment constituting a single operating unit or establishment, whether owned or operated by one or more persons, at which are maintained stationary holding tanks for milk, facilities, and other equipment used during the month for the receiving, handling, or processing of milk or milk products: *Provided,* That this definition shall not include any distribution point or any building, premises, equipment, or facilities used primarily to transfer milk from one road vehicle to another.

(i) "Route" means delivery (including disposition from a plant store or dock or from a distribution point, and distribution by a vendor or vending machine) of Class I milk to a wholesale or retail stop, including any governmental institution, other than a plant: *Provided,* That this definition shall not be deemed to include distribution by a municipal or State-owned and operated institution or establishment which processes milk for fluid consumption in any month when such distribution is confined to the premises thereof or to the premises of another similarly owned and operated institution or establishment.

(j) "Area plant" means any plant of a handler at which are maintained facilities and equipment for the washing and sanitizing of milk cans or milk tank trucks and at which milk is received during the month under either of the following conditions:

(1) Milk moved from farms in cans is accepted, weighed or measured, sampled and cooled; or

(2) Milk moved from farms in bulk tanks is accepted and transferred to stationary holding or processing facilities.

(k) "Pool plant". Subject to § 1028.54 "pool plant" means:

(1) Any area plant, except the plant of a producer-handler, in which milk is processed or packaged and from which not less than 20 percent of the total disposition of Class I milk therefrom during the month (including that disposed of through vendors or distribution points) is made within the marketing area on routes: *Provided,* That the total quantity of Class I milk so disposed of from such plant during the month on routes is not less than 50 percent of such plant's total receipts for such month of skim milk and butterfat eligible for sale in fluid form as Grade A milk within the marketing area;

(2) Any area plant, other than a plant meeting the conditions of subparagraph (1) of this paragraph, from which not less than 50 percent of its receipts during the month of milk from dairy farmers meeting the conditions described in paragraph (o) of this section is shipped in fluid form as milk to any of the plants, institutions or facilities described in subdivisions (i), (ii), and (iii) of this subparagraph: *Provided,* That if such performance requirements are met during each of the months of August through January, inclusive, such plant shall be a pool plant during each of the months of February through July, inclusive, next following, unless the handler's written request for nonpool plant status is submitted to the market administrator by the last day of any month, in which case nonpool status shall begin with the next month and subsequent renewal of pool status shall be achieved in the manner of a plant so qualifying for the first time: *And provided further,* That any plant which was a nonpool plant during any month of August through January shall not be a pool plant in any of the immediately following months of February through July in which it is operated by the same handler, an affiliate of the handler, or any person who controls or is controlled by such handler.

(i) A plant meeting the conditions of subparagraph (1) of this paragraph;

(ii) Any other plant located within the marketing area from which during the month at least 20 percent of such plant's total disposition of Class I milk is made within the marketing area on routes; or

(iii) A governmentally owned and operated institution or facility located within the marketing area; and

(3) For each month from the effective date of this paragraph until August 1, 1960, any area plant for which the handler requests pool plant status and for which the handler furnishes proof that such plant met for each month of the period August 1959 through January 1960, inclusive, the requirements for such

months described prior to the provisos in subparagraph (2) of this paragraph.

(l) "Nonpool plant" means any milk receiving, manufacturing, processing, or bottling plant other than a pool plant.

(m) "Dairy farmer" means any person who produces milk which is delivered in bulk (tank or cans) to a plant.

(n) "Dairy farmer for other markets" means any of the following:

(1) Any dairy farmer with respect to his milk received at a pool plant during the months of February through July of any year after 1960 from a farm from which the handler, an affiliate of the handler, or any person who controls or is controlled by the handler received milk other than as producer milk during any of the preceding months of August through January; and

(2) Any dairy farmer with respect to his milk received at a pool plant during any of the months of February through July of any year after 1960 from a farm from which milk was received at a nonpool plant engaged in the distribution of milk in fluid form during any portion of the preceding period August through January, inclusive.

(o) "Producer" means any dairy farmer, except a producer-handler and any dairy farmer for other markets, who produces milk on a dairy farm approved by a duly constituted health authority for the production of milk for fluid disposition, which milk is qualified for labeling and disposition as Grade A milk in the marketing area and is handled under any of the following conditions:

(1) Received at a pool plant directly from the farm;

(2) Diverted for the account of the operator of a pool plant to another pool plant; or

(3) Diverted during the month from a pool plant to a nonpool plant for the account of the operator of a pool plant or a cooperative association: *Provided,* That for each of the months of August through March milk so diverted shall be limited to deliveries of such person not exceeding 12 days' production during such month: *And provided further,* That milk diverted to another pool plant or to a nonpool plant under the conditions of this paragraph shall be deemed (except for the purpose of § 1028.31(b)(6)) to have been received at the pool plant at which his milk was last received immediately prior to diversion.

(p) "Producer milk" or "milk received from producers" means skim milk and butterfat contained in milk of producers received by a handler under the conditions of paragraph (o) of this section.

(q) "Other source milk" means all skim milk and butterfat contained in or represented by:

(1) Receipts during the month of milk and milk products in any of the forms specified in § 1028.31(a) (1), (2) and (3), except (1) such milk and milk products received from pool plants, (2) producer milk, and (3) inventory of such milk and milk products at the beginning of the month; and

(2) Products other than those specified in § 1028.31(a) (1), (2), and (3), from any source (including those produced at the plant) which are repackaged, reprocessed or converted to another product in the plant or for which other utilization or disposition is not established.

(r) "Handler" means (a) any person in his capacity as the operator of a pool plant or of any other plant from which a route is operated within the marketing area, and (b) any cooperative association with respect to milk diverted by it in accordance with the conditions set forth in paragraph (o)(3) of this section.

(s) "Producer-handler" means any person who processes and packages milk from his own farm production, who distributes some portion of such milk in the marketing area on a route, and who receives no milk or milk products in fluid form from other dairy farmers or from nonpool plants: *Provided,* That such person provides proof satisfactory to the market administrator that (1) the care and management of all the dairy animals and other resources necessary to produce the entire amount of fluid milk handled (excluding transfers from pool plants) is the personal enterprise of and at the personal risk of such person, and (2) the operation of the processing and distributing business is the personal enterprise of and at the personal risk of such person.

(t) "Chicago butter price" means the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any range as one price) per pound of Grade A (92-score) bulk creamery butter at Chicago as reported during the month by the Department.

(u) "Nonfat dry milk price" means the simple average of the weighted averages of the carlot prices per pound of spray and roller process nonfat dry milk for human consumption, f.o.b. Chicago area manufacturing plants, as published for the month by the Department.

MARKET ADMINISTRATOR

§ 1028.10 Designation.

The agency for the administration of this part shall be a market administrator, appointed by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal by, the Secretary.

§ 1028.11 Powers.

The market administrator shall have the following powers with respect to this part:

(a) Administer its terms and provisions;

(b) Receive, investigate and report to the Secretary complaints of violations;

(c) Make rules and regulations to effectuate its terms and provisions; and

(d) Recommend amendments to the Secretary.

§ 1028.12 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to the following:

(a) Within 45 days following the date on which he enters on duty, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon duty and conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions of this part;

(c) Obtain a bond in a reasonable amount, and with reasonable surety thereon, covering each employee who handles funds entrusted to the market administrator;

(d) Pay, out of the funds provided by § 1028.66, the cost of his bond and of the bond of his employees, his own compensation and all other expenses, except those incurred under § 1028.67, necessarily incurred by him in the maintenance and functioning of his office, and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary, and furnish such information and reports as the Secretary may request;

(g) Verify all reports and payments of each handler by audit or such other investigation, as may be necessary, of such handler's records and facilities and of the records and facilities of any other person upon whose utilization the classification of skim milk and butterfat depends;

(h) Publicly disclose at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, after the date upon which he is required to perform such acts, has not made reports or payments required by this part;

(i) Prepare and disseminate to producers, handlers and the public, general information as he deems necessary;

(j) On or before the date specified, publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate, the following prices f.o.b. plant in the base zone: (1) the 6th day of each month, the Class I price on a 3.5 percent butterfat basis and butterfat differential for the month; and the Class II price on a 3.5 percent butterfat basis and butterfat differential for the preceding month; and (2) the 13th day of each month, the uniform price on a 3.5 percent butterfat basis and the producer butterfat differential for the preceding month; and

(k) On or before the 15th day after the end of each month, report to each cooperative association, upon request by such association, the percentage of producer milk caused to be delivered by such association or by its members which was used in each class by each handler receiving any such milk. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class.

REPORTS, RECORDS AND FACILITIES

§ 1028.20 Reports of receipts and utilization.

(a) On or before the 7th day after the end of each month, or not later than the close of business on the 9th day after the end of the month if the report required by this paragraph is delivered in person to the office of the market administrator, each handler, except a handler required to report pursuant to paragraph (b) of this section or § 1028.21(a), shall report for such month to the market administrator, in the detail and on forms prescribed by the market administrator, the following:

(1) The total pounds of skim milk and butterfat contained in or represented by receipts of:

(i) Producer milk (including milk diverted under the conditions of § 1028.1 (o)(3));

(ii) Milk and milk products at his pool plant from other pool plants; and

(iii) Other source milk at his pool plant;

(2) Pool plant inventories of milk and milk products in fluid form at the beginning and end of the month;

(3) The utilization or disposition, as the case may be, of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement, as requested by the market administrator, of the disposition of Class I milk outside the marketing area and in each marketing area regulated by another Federal order issued pursuant to the Act; and

(4) The name and address of each producer (i) from whom milk was received for the first time, (ii) who discontinued deliveries of milk, or (iii) whose dairy farm permit is revoked by a duly constituted health authority, with the effective date of first delivery or discontinuance of delivery as a producer, as the case may be.

(b) Each handler operating an area plant which is a nonpool plant shall report on or before the applicable date specified in paragraph (a) of this section, and in the manner prescribed by the market administrator, his receipts of milk from dairy farmers and from all other sources, and the utilization of such receipts for classification in accordance with the provisions of § 1028.30, including as a separate figure(s) the quantities disposed of on routes within the marketing area and within each marketing area regulated under another order issued pursuant to the Act.

§ 1028.21 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe;

(b) (1) Each handler dumping skim milk pursuant to § 1028.31 (b)(2) shall mail or deliver to the market administrator within 48 hours following each dumping not witnessed by the market administrator or his agent, a report in writing, as prescribed by the market administrator, showing the date on which the dumping was made and the quantity dumped, such report to be signed by both the person who dumped the skim milk and the person authorized to sign reports for the handler made pursuant to § 1028.20 (if the latter person is not available to sign the report within the 48-hour period the signature of the plant manager or plant superintendent shall be substituted on the report).

(2) Each handler dumping also shall give the market administrator, at the request of and in accordance with instructions issued by the market administrator, advance notice of intention to make such disposition and of the quantities involved.

(c) Each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(1) On or before the 25th day after the end of the month, for each of his pool plants and for each area plant subject to § 1028.53(b), his dairy farmer payroll for such month which shall show: (i) The total pounds of milk received from each producer or dairy farmer, as the case may be; (ii) the average butterfat content of such milk; and (iii) the amount of such handler's payment to each dairy farmer, producer or cooperative association, as the case may be, together with the price paid per hundredweight and the amount and nature of any advance payments and deductions.

§ 1028.22 Records and facilities.

Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business such accounts and records of his operations, together with such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipt and utilization of all skim milk and butterfat handled in any form during the month;

(b) The weights and butterfat and other content of all milk and milk products handled during the month;

(c) The pounds of skim milk and butterfat contained in, or represented by, all milk and milk products on hand at the beginning and end of each month; and

(d) Payments to dairy farmers and cooperative associations, including the amount and nature of any deductions and the disbursement of money so deducted.

§ 1028.23 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided,* That if within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, if necessary in connection with a proceeding under section 8c15(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1028.30 Skim milk and butterfat to be classified.

The skim milk and butterfat to be reported pursuant to § 1028.20 for the month shall be classified pursuant to the provisions of §§ 1028.31 to 1028.36, inclusive.

§ 1028.31 Classes of utilization.

Subject to the conditions set forth in §§ 1028.32, 1028.33, and 1028.34, skim milk and butterfat shall be classified in accordance with the following classes of utilization:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat: (1) Disposed of in fluid or frozen form as milk, skim milk (including fortified skim milk), skim milk drinks, buttermilk, flavored milk, flavored milk drinks, cultured milk, cultured milk drinks, and cream (sweet, sour, and cultured), but not including frozen cream or any of the above items if sterilized and packaged in metal containers hermetically sealed; (2) used in the production of concentrated milk, skim milk, flavored milk and flavored milk drinks not sterilized (but not including (i) those products commonly known as evaporated milk, condensed milk, and condensed skim milk; (ii) flavored milk or flavored milk drinks sterilized and packaged in metal containers hermetically sealed; and (iii) any item named in this subparagraph disposed of pursuant to paragraph (b)(2)(i) and (3) of this section); (3) disposed of as any fluid mixture containing cream and milk or skim milk (but not including ice cream and other frozen dessert mixes disposed of to a commercial processor, cocoa mixes, any mixture disposed of in containers or dispensers under pressure for the purpose of dispensing a whipped or aerated product, evaporated or condensed products, eggnog and yogurt); (4) shrinkage of producer milk in excess of that pursuant to paragraph (b)(6) of this section; and (5) not specifically accounted for under paragraph (b) of this section.

(b) Class II milk shall be all skim milk and butterfat: (1) used to produce any product other than those included under paragraph (a) (1), (2) and (3) of this section; (2)(i) disposed of for animal feed, or (ii) dumped (skim milk only): *Provided,* That the conditions of § 1028.21(b) are met by the handler; (3) disposed of in bulk in any of the forms specified in paragraph (a) (1), (2) and (3) of this section to bakeries, soup companies and candy manufacturing establishments in their capacity as such; (4) disposed of in any of the forms specified in paragraph (a) (1), (2) and (3) of this section if sterilized and packaged in metal containers hermetically sealed; (5) contained in inventories of items included in paragraph (a) (1), (2) and (3) of this section on hand at the end of the month; (6) in actual shrinkage not to exceed one-half of one percent of the skim milk and butterfat,

respectively, in producer milk physically received at the pool plant, plus 1½ percent of such receipts and of the receipts of skim milk and butterfat in bulk fluid form from pool plants, less such items disposed of from such plant in bulk to another plant; and (7) in actual shrinkage of other source milk.

§ 1028.32 Shrinkage.

In computing shrinkage for the purposes of § 1028.31, the market administrator shall determine the shrinkage of skim milk and butterfat in the following manner:

(a) Compute total shrinkage at each pool plant by subtracting the skim milk and butterfat, respectively, classified as Class I milk pursuant to § 1028.31 (a) (1), (2) and (3) and as Class II milk pursuant to § 1028.31(b) (1) through (5) (subject to the provisions of §§ 1028.33 through 1028.35 and not including items received in packaged form which are disposed of without repackaging) from the receipts of skim milk and butterfat required to be reported pursuant to § 1028.20.

(b) Prorate the total shrinkage of skim milk and butterfat, respectively, computed pursuant to paragraph (a) of this section, among the pounds of producer milk physically received at such plant, other source milk received in bulk fluid form, and receipts of skim milk and butterfat in bulk fluid form received from other pool plants in excess of transfers of such products in bulk to other plants.

§ 1028.33 Responsibility of handlers.

All skim milk and butterfat shall be Class I milk, unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified as Class II milk.

§ 1028.34 Transfers.

Skim milk and butterfat transferred as any item specified in § 1028.31(a) (1), (2) and (3), or diverted as producer milk, from a pool plant to other plants shall be classified as follows:

(a) As Class I milk if so moved to another pool plant unless:

(1) Utilization in another class is claimed by the operators of both plants in their reports submitted pursuant to § 1028.20; and

(2) The transferee-plant has utilization in Class II milk of equivalent amounts of skim milk and butterfat, respectively, after making the assignments pursuant to § 1028.36(a) (1) through (3) and the corresponding steps of § 1028.36(b) with any remaining quantities to be classified as Class I milk: *Provided,* That if the transferor-plant has other source milk during the month, the skim milk or butterfat so transferred or diverted shall be classified at both plants so as to allocate the highest-priced available class utilization to the producer milk at both plants: *Provided also,* That in the application of this paragraph for the purposes of § 1028.53(b) to any plant subject to such paragraph, transfers, or diversions of milk from such plant to a pool plant shall be classified to each class in the same ratio as other source milk is allocated to each class in such pool plant pursuant to § 1028.36(a) and the corresponding step of § 1028.36(b): *And provided further,* That (i) milk received from a plant subject to location adjustments shall be assigned to Class I milk in the transferee-plant after producer milk receipts and any receipts from plants subject to no location adjustment are so assigned; and (ii) if milk is received from more than one transferor-plant, plant assignment of the available Class I milk in the transferee-plant shall be made to the transferor-plants, respectively, in sequence beginning with the plant having the least location adjustment.

(b) As Class I milk if so moved to a nonpool plant located 300 miles or more from the County Courthouse, Bloomington, Illinois, or to the plant of a producer-handler: *Provided,* That skim milk and butterfat moved in fluid form as cream to a nonpool plant located more than 300 miles from the County Courthouse, Bloomington, Illinois, which is not engaged in the processing or packaging of milk or cream for distribution in fluid form on routes shall be Class II milk if the following conditions are met:

(1) The transferor-handler establishes the fact that such cream was transferred without Grade A certification;

(2) The shipment was invoiced accordingly; and

(3) The market administrator was given sufficient notice to allow him to verify the conditions of shipment.

(c) (1) As Class I milk to the extent of the pro rata quantity of skim milk and butterfat computed under subparagraph (2) of this paragraph if so moved in bulk to a nonpool plant and the following conditions are met; and any remainder so moved shall be Class II milk:

(i) The transferee-plant is located less than 300 miles from the County Courthouse, Bloomington, Illinois;

(ii) The transferor-handler claims classification of such skim milk and butterfat as Class II milk in his report submitted pursuant to § 1028.20; and

(iii) The operator of the transferee-plant maintains books and records showing the receipts and utilization of all skim milk and butterfat in any form at such plant, which are made available if requested by the market administrator for the purpose of verification.

(2) Compute a pro rata quantity as follows:

(i) From the total skim milk and butterfat, respectively, disposed of from such nonpool plant as Class I milk pursuant to the classification provisions of this order applied to such nonpool plant, subtract the skim milk and butterfat received at such plant directly from dairy farmers who hold permits to supply Grade A milk and who the market administrator determines constitute for the month the regular source of supply for Class I milk at such nonpool plant;

(ii) From any remaining balance of such Class I milk in the nonpool plant, subtract any fluid milk item received in consumer-type packages from a plant regulated by another Federal order issued pursuant to the Act where priced as Class I milk (including any fluid cream, by actual weight of skim milk and butterfat therein, classified and priced as Class II milk under Order No. 41 or Order No. 7 for the Chicago and Milwaukee markets, respectively);

(iii) Prorate the remaining Class I milk at the nonpool plant to receipts in bulk which are subject to the classification and pricing provisions of this and other Federal milk orders issued pursuant to the Act; and

(iv) Further apportion among handlers the amount of Class I milk prorated to this order on the basis of the quantities claimed to be moved to such nonpool plant as Class II milk.

§ 1028.35 Computation of skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and other obvious errors the monthly report submitted by each handler pursuant to § 1028.20 and compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk for such handler: *Provided,* That if any of the water contained in the milk from which a product is made is removed before such product is disposed of by the handler, the skim milk used to produce such products shall be considered to be equivalent in weight to the nonfat milk solids contained in such product plus all the water originally associated with such solids.

§ 1028.36 Allocation of skim milk and butterfat classified.

(a) The pounds of skim milk remaining in each class after making the following computations with respect to each handler required to report pursuant to § 1028.20(a), shall be the pounds of skim milk in such class allocated to such handler's producer milk for the month.

(1) Subtract from the total pounds of skim milk in Class II milk, the pounds of skim milk shrinkage allowed pursuant to § 1028.31(b)(6);

(2) Subtract from the remaining pounds of skim milk in each class in series beginning with Class II milk, the pounds of skim milk in other source milk in the form of products included in Class II milk;

(3) Subtract from the remaining pounds of skim milk in each class in series beginning with Class II milk, the pounds of skim milk in other source milk received in bulk in any of the forms specified in § 1028.31(a) (1), (2) and (3), (i) that is not subject to pricing as Class I milk (and as Class II milk under Order No. 41 and Order No. 7) under another Federal order, and secondly, (ii) that which is subject to such pricing under another order;

(4) Subtract from the remaining pounds of skim milk in Class I milk the pounds of skim milk in items specified in § 1028.31(a) (1), (2) and (3), (i) received in consumer-type packages which are subject to pricing as Class I milk (and as Class II milk under Order No. 41 and Order No. 7) under a Federal order; and (ii) received from any plant which is furnished its entire Grade A milk supply from a pool plant;

(5) Subtract from the remaining pounds of skim milk in each class, respectively, skim milk in items specified in § 1028.31(a) (1), (2) and (3) received from other pool plants and assigned to such class;

(6) Subtract from the remaining pounds of skim milk in Class II milk the pounds of skim milk contained in inventory of items specified in § 1028.31(a) (1), (2) and (3) at the beginning of the month: *Provided,* That if the pounds of skim milk in such beginning inventory exceed the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the remaining pounds of skim milk in Class I milk;

(7) Assign to Class II milk the amount subtracted pursuant to subparagraph (1) of this paragraph; and

(8) If the remaining pounds of skim milk in both classes exceed the total pounds of skim milk in the producer milk of such handler subtract such excess (hereinafter referred to as "overage") from the remaining pounds of skim milk in each class in sequence beginning with Class II milk.

(b) Determine the pounds of butterfat in each class to be allocated to producer milk in the manner prescribed in paragraph (a) of this section for determining the allocation.

(c) Add the pounds of skim milk and pounds of butterfat in each class calculated pursuant to paragraphs (a) and (b) of this section and determine the percentage of butterfat in the producer milk allocated to each class.

MINIMUM PRICES

§ 1028.40 Class prices.

Subject to the provisions of §§ 1028.41 and 1028.42, the minimum class prices per hundredweight for the month, shall be determined by the market administrator as follows:

(a) *Class I milk price.* For each month during the 18-month period following the effective date of this section, the price for Class I milk, f.o.b. plant in the base zone, shall be the minimum announced price as determined for the month for the 55–70 mile zone pursuant to Order No. 41 (Part 941 of this chapter) regulating the handling of milk in the Chicago, Illinois, marketing area, plus 40 cents.

(b) *Class II milk price.* The price for Class II milk shall be:

(1) The arithmetical average of the basic (or field) prices paid, or to be paid, per hundredweight for milk of 3.5 percent butterfat content received from farmers during the month at the following places for which prices are reported to the market administrator or the Department by the companies listed below:

Company and Location
Borden Co., Mount Pleasant, Mich.
Borden Co., New London, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Sparta, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

§ 1028.41 Butterfat differentials to handlers.

For each one-tenth of one percent that the weighted average butterfat test of producer milk which is classified in each class for each handler is more or less than 3.5 percent there shall be added to or subtracted from, as the case may be, the price for such class, a butterfat differential determined as follows:

(a) *Class I price*—Multiply the Chicago butter price for the preceding month by 0.125.

(b) *Class II price*—Multiply the Chicago butter price for the month by 0.115.

§ 1028.42 Location differentials to handlers.

For milk received at a plant not located in the base zone, which is classified as Class I milk, the price determined pursuant to § 1028.40(a) shall be reduced by a location differential as follows:

(a) The amount of location differential shall be determined in accordance with the following table: *Provided,* That for the purpose of calculating such location differential credits applicable on milk and milk products in bulk fluid form which are transferred between plants, (1) such transfers shall be assigned to any remainder of Class II milk in the transferee-plant after making the calculations prescribed in § 1028.36(a)(4), and the comparable step in § 1028.36(b), for such plant, and (2) assignment to transferor-plants shall be made in sequence according to the location differential applicable at each plant, beginning with the plant having the next lowest differential.

Location of plant	*Rate per hundredweight (cents)*
In any of the counties of Champaign, Vermilion, De Witt, Douglas, Knox, Warren, Fulton, Edgar, Peoria, Woodford, Mason, McDonough, Piatt, Stark, Marshall Tazewell, McLean, Livingston, and Ford.	6.0.
Outside the marketing area but not less than 70 miles from the County Courthouse at Springfield or Toledo, Illinois, whichever is nearer such plant.	9.0, plus 1.5 cents for each additional 10 miles, or major fraction thereof, in excess of 70 miles.

(b) For each month the distance of each plant outside the marketing area from the nearer of the County Courthouses located at Springfield and Toledo, Illinois, shall be computed on the basis of the shortest hard-surfaced highway, as determined by the market administrator.

§ 1028.43 Computation of prices of skim milk and butterfat.

The prices per hundredweight of skim milk and butterfat to be paid by each handler for producer milk in each class shall be computed as follows: For each class, respectively, the price per hundredweight of skim milk shall be the applicable class price for the month (§ 1028.40) less the result of multiplying the applicable class butterfat differential for the month (§ 1028.41) by 35. For each class, respectively, the price per hundredweight of butterfat shall be the applicable class price for the month plus the result of multiplying the applicable class butterfat differential for the month by 965.

§ 1028.44 Use of equivalent prices.

If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

§ 1028.45 Rate of payment on other source milk.

(a) Except as provided in paragraph (b) of this section, the rate of payment per hundredweight by a handler on Class I milk not derived from producer milk shall be calculated as follows: Subtract the Class II price adjusted by the Class II butterfat differential, from the Class I price adjusted by the Class I butterfat differential and a location differential computed at the rate set forth in § 1028.42 for the location of the plant from which such milk is supplied.

(b) For the months of August through January the rate of payment per hundredweight by a handler on Class I milk derived from other source milk in fluid form which has been qualified by a duly constituted health authority for labeling and disposition as Grade A milk in the marketing area shall be computed as follows: Subtract the uniform price to producers (§ 1028.51) adjusted by the producer butterfat and location differentials, from the Class I price adjusted by the Class I butterfat and location differentials, for the location of the plant from which such milk is supplied.

DETERMINATION OF UNIFORM PRICES

§ 1028.50 Net obligation of each handler operating a pool plant.

The net obligation for producer milk received during the month by a handler operating a pool plant shall be a sum of money computed by the market administrator by multiplying the pounds of skim milk and butterfat therein in each class by the applicable class price pursuant to § 1028.43, adding together the resulting amounts; adding any amounts computed for such handler pursuant to paragraphs (a), (b) and (c) of this section.

(a) Multiply the pounds of any overage deducted from each class pursuant to § 1028.36 (a)(8) and (b) by the applicable class price(s);

(b)(1) Multiply the hundredweight of other source milk subtracted from Class I milk pursuant to § 1028.36(a)(2) and the corresponding step of § 1028.36(b), by the rate of payment determined pursuant to § 1028.45(a) to be applicable at the pool plant where it was allocated; and

(2) Multiply the hundredweight of other source milk subtracted from Class I milk pursuant to § 1028.36(a)(3) and

the corresponding step of (b) by the rates of payment under § 1028.45 applicable at the nearest plant from which a comparable amount of such other source milk was received: *Provided,* That if the source of such other source milk is not clearly established, it shall be considered to have been received by the handler at the location of the plant where allocation is made: *And provided further,* That the payment described in this subparagraph shall not apply with respect to receipts by such handler of other source milk from a plant to which § 1028.53(b) is applicable.

(c) Add the amounts computed under subparagraphs (1) and (2) of this paragraph:

(1) Multiply the difference between the applicable Class I price for the month and the applicable Class II price for the preceding month by the pounds of producer milk remaining in Class II milk for the preceding month less allowable shrinkage for such month pursuant to § 1028.36(a)(1), or the pounds of skim milk and butterfat subtracted from Class I milk pursuant to § 1028.36(a)(6) and the corresponding step of § 1028.36(b) for the month, whichever is less; and

(2) Multiply the applicable rate of payment pursuant to § 1028.45 by the pounds of skim milk and butterfat allocated to Class I milk pursuant to § 1028.36(a)(6) and the corresponding step of § 1028.36(b) for the month which is in excess of the sum of (i) the quantity for which an adjustment was made pursuant to subparagraph (1) of this paragraph, and (ii) any quantity assigned to Class II milk pursuant to § 1028.36(a)(3)(ii), and the corresponding step of § 1028.36(b) for the preceding month which was priced in such month as Class I milk (and as Class II milk under Order No. 41 and Order No. 7) under this or another Federal order.

§ 1028.51 Computation of uniform price.

For each month, the market administrator shall compute the uniform price per hundredweight for producer milk of 3.5 percent butterfat content, f.o.b. plant in the base zone, as follows:

(a) Combine into one total the values computed pursuant to § 1028.50 for all handlers who made the reports prescribed in § 1028.20(a) and the payments pursuant to §§ 1028.60 and 1028.62 for the preceding month;

(b) Add an amount representing the total value of all location adjustments to such handlers on producer milk pursuant to § 1028.65(b);

(c) Add an amount equal to one-half of the unobligated cash balance in the producer-settlement fund;

(d) Subtract if the average butterfat content of producer milk included in these computations is greater than 3.5 percent, or add if such average butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1028.65(a), and multiplying the resulting figure by the hundredweight of such milk;

(e) Divide by the total hundredweight of producer milk included in such computation; and

(f) Subtract not less than 4 cents nor more than 5 cents, adjusting to the nearest cent.

§ 1028.52 Notification of handlers.

The market administrator shall:

(a) On or before the 13th day after the end of each month, notify each handler subject to § 1028.20(a) of the following:

(1) The amount and value of his milk in each class pursuant to § 1028.50;

(2) The amount due the producer-settlement fund pursuant to § 1028.62; and

(3) The amount to be paid by such handler pursuant to § 1028.66.

(b) On or before the 20th day after the end of each month, notify each handler who operates an area plant which is not a pool plant the amout due the producer-settlement fund and the amount due for administrative assessment pursuant to § 1028.53.

§ 1028.53 Obligation of handler operating a nonpool plant.

On or before the 20th day after the end of each month, each handler, except a producer-handler, operating a nonpool plant (other than a fully regulated plant under another Federal order issued pursuant to the Act) from which routes are operated in the marketing area shall pay to the market administrator the amounts computed pursuant to paragraph (a) of this section, unless the handler elects at the time his report pursuant to § 1028.20(b) is due to pay the amounts computed pursuant to paragraph (b) of this section.

(a) An amount (1) for deposit in the producer-settlement fund, equal to the rate of payment on other source milk pursuant to § 1028.45 multiplied by the hundredweight of skim milk and butterfat disposed of from such plant as Class I milk (computed in accordance with § 1028.36) in the marketing area on routes during such month; and

(2) For administrative assessment, equal to the rate effective under § 1028.66 applied to such Class I milk, unless an administrative expense assessment is applied to milk at such plant pursuant to another Federal order issued pursuant to the Act on the same basis as plants fully regulated by such order; or

(b) An amount (1) for deposit into the producer-settlement fund, equal to any plus amount remaining after deducting the amounts computed under subdivisions (i) and (ii) of this subparagraph from the obligation that would have been computed pursuant to § 1028.50 for such nonpool plant and any supply plant (meeting the requirements provided by § 1028.1(k)(2)), which serves as a source of milk for such nonpool plant, had such plant(s) been a pool plant(s):

(i) The gross payments made on or before the 20th day after the end of the month to dairy farmers for milk meeting the quality requirements described in § 1028.1(o) and received at such plant(s) during the month; and

(ii) Any payments to the producer-settlement funds under other Federal orders issued pursuant to the Act applicable to milk at such plant during the month as a partially regulated plant under such other orders, and

(2) For administrative assessment, equal to that which would have been computed pursuant to § 1028.66 if such area plant had been a pool plant during the month: *Provided,* That such amount shall be reduced by any amounts paid for the month as an administrative expense assessment determined on the basis of Class I milk disposed of on routes in other marketing areas, pursuant to the terms of other Federal orders issued pursuant to the Act: *And provided further,* That (i) if less Class I milk is disposed of from such plant on routes in the Central Illinois marketing area than is disposed of during the month on routes in another marketing area(s) as defined in a Federal order(s) issued pursuant to the Act, and (ii) if an administrative expense assessment is applied at such plant as if a fully regulated (pool) plant under the order for the marketing area where the volume of Class I milk disposed of from such plant is greatest, no administrative expense assessment shall be applicable under this part.

§ 1028.54 Plants with milk in more than one Federal order market.

Milk received at a plant otherwise eligible as a pool plant under § 1028.1(k) shall be exempt from the provisions of this part if the conditions of paragraph (a) or (b) of this section are met: *Provided,* That the handler of such milk shall make reports to the market administrator with respect to his total receipts and utilization of skim milk and butterfat at such times and in such manner as the market administrator may require and allow verification of such reports by the market administrator in accordance with § 1028.12(g):

(a) The Secretary determines that (1) during the month a greater quantity of Class I milk is disposed of from such plant to another marketing area as defined in another Federal order (either on a route or through a plant) than is disposed of during the month from such plant in the Central Illinois marketing area (either on a route or through a plant), and (2) such Class I milk would be subject to the class price and producer payment provisions of the other Federal order upon being made exempt from this part.

(b) Any plant having status as a pool plant under another Federal order for November of any year shall not qualify as a pool plant under § 1028.1(k)(2) for such month of November or for any portion of the next following December through July, inclusive, even though such plant meets the requirements of § 1028.1(k)(2), unless it first has been withdrawn as a pool plant under the other order in the manner provided in such other order.

PAYMENTS

§ 1028.60 Time and method of payments for producer milk.

(a) Except as provided in paragraph (c) of this section, each handler shall pay, on or before the last day of each month, each producer for milk received from him during the first 15 days of such month not less than the Class II price for the preceding month rounded to the next lower dollar or half dollar, as the case may be: *Provided,* That in the event any producer or cooperative association discontinues delivery to such handler during the month, such partial payment shall not be made and full payment for all milk received from such producer or cooperative association during the month shall be made pursuant to paragraphs (b) and (c) of this section;

(b) Except as provided in paragraph (c) of this section, each handler (1) on or before the 20th day after the end of the month shall pay each producer for milk received from him during the month not less than the uniform price for such month computed pursuant to § 1028.51, adjusted by the butterfat and location differentials pursuant to § 1028.65, and less the amount of the payment made pursuant to paragraph (a) of this section, and other bona fide deductions; *Provided,* That, with respect to each deduction made from such payment, the burden shall rest upon the handler making the deduction to prove that each deduction is authorized by, and properly chargeable to, the producer.

(2) Furnish each producer with a supporting statement, in such form that it may be retained by the producer, which shall show:

(i) The month, and identity of the handler and of the producer;

(ii) The total pounds and the average butterfat content of milk received from the producer;

(iii) The nature and amount, or the rate per hundredweight, of each deduction claimed by the handler, including any deduction made pursuant to § 1028.67;

(iv) The minimum rate or rates at which payment is required;

(v) The rate used in making payment if such rate is more than the minimum; and

(vi) The net amount of payment to the producer.

(c) Upon receipt of written request from a cooperative association which is authorized by its members to collect payment for their milk, accompanied by written promise to reimburse the handler for the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association, each handler shall:

(1) Pay to the cooperative association on or before the 28th and 19th days of each month, in lieu of payments pursuant to paragraphs (a) and (b), respectively, of this section, an amount not less than the total due such producer-members as determined pursuant to such paragraphs;

(2) Submit to the cooperative association on or before the 28th day of each month, written information which shows for each producer-member the total pounds of milk received during the first 15 days of such month; and

(3) Submit to the cooperative association in writing on or before the 19th day of each month for each producer-member the information specified pursuant to subdivisions (i) through (iii) of paragraph (b)(2) of this section.

(d)(1) The payments and submission of information pursuant to paragraph (c) of this section shall be made with respect to milk of each producer who is certified by the cooperative association as a member, which milk is received on and after the first day of the month next following the receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership, or until the original request is rescinded in writing by the cooperative association.

(2) A copy of each such request, promise to reimburse, and certified list of members shall be filed simultaneously with the market administrator by the cooperative and shall be subject to verification at his discretion through audit of the records of the cooperative association pertaining thereto.

(3) Exceptions, if any, by a producer claimed to be a member or by a handler to the accuracy of such certification shall be made by written notice to the market administrator and shall be subject to his determination.

§ 1028.61 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1028.53 (a)(1) or (b)(1), 1028.62 and 1028.64, and from which he shall make all payments pursuant to §§ 1028.63 and 1028.64: *Provided,* That payments due to any handler shall be offset by payments due from such handler.

§ 1028.62 Payments to the producer-settlement fund.

On or before the 15th day after the end of each month each handler shall pay to the market administrator any amount by which the total value of his milk computed pursuant to § 1028.50 for such month is greater than the value of producer milk received by such handler during the month, computed at the minimum uniform price as specified in § 1028.51, adjusted by the differentials provided for in § 1028.65.

§ 1028.63 Payments out of the producer-settlement fund.

On or before the 17th day after the end of each month, the market administrator shall pay to each handler, any amount by which the total value of his milk computed pursuant to § 1028.50 for such handler for such month is less than the value of producer milk received by such handler during the month, computed at the minimum uniform price as specified in § 1028.51, adjusted by the differentials provided for in § 1028.65.

§ 1028.64 Adjustment of errors in payment.

Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund pursuant to §§ 1028.53 and 1028.62, the market administrator shall promptly bill such handler for any unpaid amount and such handler, within 15 days shall make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler pursuant to § 1028.63, the market administrator, within 15 days shall make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer or cooperative association for milk received by such handler discloses payment of less than is required by § 1028.60, the handler shall pay such balance, due such producer or cooperative association not later than the specified time of making payment to producers or cooperative associations next following such disclosure.

§ 1028.65 Butterfat and location differentials to producers.

(a) *Butterfat differential.* In making payment for producer milk pursuant to § 1028.60, there shall be added to or subtracted from the uniform price per hundredweight, for each one-tenth of one percent of butterfat content in such milk above or below 3.5 percent, respectively, a butterfat differential computed by the market administrator as the average of the class butterfat differentials determined pursuant to § 1028.41 weighted by the total pounds of butterfat in producer milk in each class, respectively, and the result adjusted to the nearest one-tenth cent.

(b) *Location differentials.* In making payments pursuant to § 1028.60 for milk received at a plant located outside the base zone, the uniform price shall be reduced at the same rate as is applicable to Class I milk at such plant pursuant to § 1028.42.

§ 1028.66 Expense of administration.

As his pro rata share of the expense of the administration of this part, each handler shall pay to the market administrator on or before the 15th day after the end of each month, 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to receipts during the month of (1) producer milk, and (2) other source milk allocated to Class I milk pursuant to § 1028.36(a) (2) and (3) and the corresponding step of § 1028.36(b), excluding other source milk on which a corresponding type of assessment is payable under another Federal order. A handler operating an area plant which is a nonpool plant shall pay administrative assessments in accordance with § 1028.53.

§ 1028.67 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursu-

ant to § 1028.60(b), shall deduct 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to all milk received by such handler from such producer (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify weights, samples, and tests of milk received by handlers from such producers during the month and to provide such producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent by and responsible to him.

(b) In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

§ 1028.68 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money, irrespective of when such obligation arose.

(a) Except as provided in paragraphs (b) and (c) of this section, the obligation of any handler to pay money required to be paid under the terms of this part shall terminate two years after the last day of the month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market administrator or his representatives all books and records required by this order to be made available, the market administrator may within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this order to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this order shall terminate two years after the end of the month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

MISCELLANEOUS PROVISIONS

§ 1028.70 Effective time.

The provisions of this part, or any amendments to its provisions, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 1028.71.

§ 1028.71 Suspension or termination.

The Secretary may suspend or terminate this part, or any provision thereof, whenever he finds that it obstructs or does not tend to effectuate the declared policy of the Act. This part shall terminate, in any event, whenever the provisions of the Act authorizing it cease to be in effect.

§ 1028.72 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, there are any obligations arising under it, the final accrual or ascertainment of which requires further acts by any person, such further acts shall be performed notwithstanding such suspension or termination.

§ 1028.73 Liquidation.

Upon the suspension or termination of any or all provisions of this part the market administrator, or such person as the Secretary may designate, shall liquidate, if so directed by the Secretary, the business of the market administrator's office and dispose of all funds and property then in his possession or under his control together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected over and above the amount necessary to meet outstanding obligations and the expenses incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 1028.74 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 1028.75 Separability of provisions.

If any provision of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Issued at Washington, D.C., this 15th day of February 1960.

ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 60-1551; Filed, Feb. 17, 1960; 8:49 a.m.]

DEPARTMENT OF LABOR

Public Contracts Divisions

[41 CFR Part 50-202]

PAPER AND PULP INDUSTRY

Notice of Reopening of Hearing To Redetermine Prevailing Minimum Wages

On June 30 and July 1, 1958 a hearing was held pursuant to sections 1 and 10 of the Walsh-Healey Public Contracts Act (49 Stat. 2036; 41 U.S.C. 35 et seq.) to redetermine prevailing minimum wages for the paper and pulp industry. On March 13, 1959 (24 F.R. 1841), I issued a tentative decision on all matters in issue, based upon the record made at the hearing, as required by section 8 of the Administrative Procedure Act (60 Stat. 242; 5 U.S.C. 1007). The tentative decision provided opportunity for interested persons to file exceptions and state their reasons.

Upon consideration of the exceptions, supporting reasons and petitions that the hearing be reopened together with the record, I have decided it is appropriate to reopen the hearing for the purpose of taking additional evidence as to: (1) whether separate prevailing minimum wage determinations should be made for the primary paper and pulp branch, the rag paper and pulp branch, the converted sanitary paper products branch, and the building paper and building board branch, or any combination of them, (2) whether any determination should be made for the building paper and building board branch, (3) whether, for each such branch, there should be a single determination for all of the area in which such branch is currently operating or separate determinations for smaller geographic areas, including the appropriate boundaries for such areas, and (4) what are the prevailing minimum wages in the branches and areas for which determinations should be made.

For the purpose of the reopened hearing the industry and the branches mentioned above are defined as fellows:

The paper and pulp industry is that industry which manufactures or furnishes pulp from wood or from other materials such as rags, linters, waste paper, and straw; paper from wood pulp and other fibers; paperboard from wood pulp and other fibers; building paper and building board, except gypsum products; coated book paper; and sanitary paper such as facial tissues, toilet paper, paper napkins, and paper towels. The paper and pulp industry does not include the manufacture or furnishing of paper boxes and containers; paper bags; fiber cans, tubes, and drums; stationery and envelopes; and related products.

(1) The primary paper and pulp branch of the paper and pulp industry is that part of the industry which manufactures or furnishes pulp from wood or from other materials such as waste paper, linters, and straw (except rags, cotton waste, cotton, and flax); paper from wood pulp and other fibers (except paper containing 25 percent or more pulp made from rags, cotton waste, linters, cotton, flax, or a combination of these fibers); paperboard from wood pulp and other fibers; and coated book paper.

(2) The rag paper and pulp branch of the paper and pulp industry is that part of the industry which manufactures or furnishes pulp from rags, cotton waste, cotton, and flax; and paper containing 25 percent or more pulp made from rags, cotton waste, linters, cotton, flax or a combination of these fibers.

(3) The converted sanitary paper products branch of the paper and pulp industry is that part of the industry which manufactures or furnishes converted sanitary paper products such as facial tissue, toilet paper, paper napkins, and paper towels.

(4) The building paper and building board branch of the paper and pulp industry is that part of the industry which manufactures or furnishes building paper and building board from wood pulp or other fibrous materials.

Therefore, pursuant to the provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003), notice is hereby given that the hearing for redetermination of prevailing minimum wages in the paper and pulp industry will be reopened and reconvened on April 12, 1960, at 10:00 a.m., in Room 2325, United States Department of Labor Building, 14th Street and Constitution Avenue NW., Washington, D.C., before Hearing Examiner Clifford P. Grant, for the limited purpose stated above.

Any interested persons may appear at the time and place specified herein and submit evidence as to the issues enumerated above. Employment and wage data as of October 1957 and data relating to the area of competition for government contracts, both relating to the industry as a whole, were presented at the hearing. Such data are being revised and will correspond to the branches of the industry identified above. Copies will be made available to interested persons who request them prior to the hearing.

Written statements may be filed with the Chief Hearing Examiner at any time prior to the date the hearing is reopened by persons who cannot appear personally. An original and three copies of any such statement shall be filed and shall include the reason or reasons for non-appearance. Such statement shall be under oath or affirmation and will be offered in evidence at the hearing. If objection is made to the admission of any such statement, the Presiding Officer shall determine whether it will be received in evidence.

To the extent possible, the evidence of each witness and the sworn or affirmed statements of persons who cannot appear personally, should permit evaluation on a plant-by-plant basis, and state: (1) (a) The number and location of establishments in the industry, or within product groups as defined herein, to which the testimony of such witness or such written statement is applicable, (b) the number of workers in each such establishment, (c) the minimum rates paid to covered workers and the number of covered workers at each such establishment receiving such rates, and the occupations in which they are employed; (2) the geographic area or areas of competition for government contracts within the product groups defined above; and (3) any changes in the minimum wages paid since October 1957 to persons employed in this industry, or product groups within the industry.

The hearing will be conducted pursuant to the rules of practice for minimum wage determinations under the Walsh-Healey Public Contracts Act codified in 41 CFR Part 203.

Signed at Washington, D.C., this 12th day of February 1960.

JAMES T. O'CONNELL,
Acting Secretary of Labor.

[F.R. Doc. 60-1534; Filed, Feb. 17, 1960; 8:47 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Parts 600, 601]

[Airspace Docket No. 59-WA-428]

FEDERAL AIRWAYS AND CONTROL AREAS

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to §§ 600.6003, 600.6293 and 601.6293 of the regulations of the Administrator, the substance of which is stated below.

VOR Federal airway No. 3 extends, in part, from the Rancho, Fla., intersection to West Palm Beach, Fla. VOR Federal airway No. 293 extends, in part, from West Palm Beach to LaBelle, Fla. The Federal Aviation Agency has under consideration redesignating Victor 3 from the Rancho Intersection (intersection of the Miami, Fla., VOR 205° and the Biscayne Bay, Fla., VOR 262° True radials) via Biscayne Bay to West Palm Beach. This realignment would facilitate air traffic management by providing a bypass route around the Miami terminal area. Concurrently with this action, Victor 3 east alternate, which is presently designated from the intersection of the Miami International Airport ILS localizer east course and the West Palm Beach VOR 183° True radial to the West Palm Beach VOR via the intersection of the Miami International Airport ILS localizer east course with the Biscayne Bay, Fla., VOR 021° True radial, and the intersection of the Biscayne Bay VOR 021° and the West Palm Beach VOR 168° True radials, would be redesignated from the Biscayne Bay VOR via the intersection of the Biscayne Bay VOR 021° and the West Palm Beach VOR 166° True radials, to the West Palm Beach VOR. This redesignation of Victor 3 east alternate would provide sufficient lateral divergence with Victor 3 to permit optimum utilization of these airway segments for air traffic management. It is also proposed to designate a west alternate and its associated control areas to Victor 293 from West Palm Beach to LaBelle via the intersection of the West Palm Beach VOR 266° and the LaBelle VOR 112° True radials. The high volume of air traffic operating between Miami and northern points along VOR Federal airways No. 51 and 267 limits the number of altitudes available for westbound traffic on Victor 293 between West Palm Beach and LaBelle in the vicinity of Pohakee, Fla., VOR. The designation of a west alternate to Victor 293 between West Palm Beach and LaBelle would facilitate air traffic management by providing a dual airway structure between these two points. The control areas associated with Victor 3 are so designated that they would automatically conform to the modified airway. Accordingly, no amendment relating to such control areas would be necessary.

If this action is taken, the segment of VOR Federal airway No. 3 from Rancho, Fla., Intersection to West Palm Beach, Fla., would be redesignated via Biscayne Bay, Fla., to West Palm Beach, including an east alternate from Biscayne Bay to West Palm Beach via the intersection of Biscayne Bay VOR 021° and the West Palm Beach VOR 166° True radials. A west alternate to VOR Federal airway No. 298 between West Palm Beach and La Belle, Fla., with associated control areas would be designated via the West Palm Beach VOR 266° and the La Belle VOR 112° True radials.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Division, Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented dur-

ing such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B–316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on February 11, 1960.

GEORGE S. CASSADY,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 60–1528; Filed, Feb. 17, 1960; 8:46 a.m.]

[14 CFR Part 602]

[Airspace Docket No. 59–WA–224]

CODED JET ROUTES

Revocation

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to §§ 602.106, 602.109 and 602.110 of the regulations of the Administrator, the substance of which is stated below.

L/MF jet route No. 6 presently extends in part from Palmdale, Calif., to Prescott, Ariz. L/MF jet routes No. 9 and 10 presently extend in part from Los Angeles, Calif., to Las Vegas, Nev. The Federal Aviation Agency has under consideration revocation of these segments of Jet Routes No. 6–L, 9–L, and 10–L in order to divert en route traffic from the area of high concentration of supersonic jet aircraft operations at Edwards Air Force Base, Calif., to other routes. The routes cannot be realigned to the north of the airbase due to the location of the California restricted area complex. No suitable L/MF facility is available to realign the routes to the south of the airbase. The Federal Aviation Agency IFR peak-day airway traffic survey for the period July 1, 1958, through June 30, 1959, shows less than 10 aircraft movements on Jet Route No. 6–L and less than 11 aircraft movements on Jet Routes No. 9–L and 10–L between any two reporting points on these jet route segments. Therefore, it appears that the retention of these jet route segments is unjustified and that the revocation thereof would be in the public interest.

If these actions are taken, the segment of L/MF jet route No. 6 from Palmdale, Calif., to Prescott, Ariz., would be revoked and the segments of L/MF jet routes No. 9 and 10 from Los Angeles, Calif., to Las Vegas, Nev., would be revoked.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Chief, Airspace Utilization Division. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B–316, 1711 New York Avenue NW., Washington 25, D.C.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on February 11, 1960.

GEORGE S. CASSADY,
Acting Director, Bureau of Air Traffic Management.

[F.R. Doc. 60–1527; Filed, Feb. 17, 1960; 8:45 a.m.]

Notices

CIVIL AERONAUTICS BOARD

ACCIDENT NEAR BUFFALO, TEXAS

Notice of Reconvening of Hearing

In the matter of investigation of accident involving aircraft of United States Registry N 9705, which occurred near Buffalo, Texas, September 29, 1959; Docket No. SA–346.

Notice is hereby given that the hearing in the above styled matter will be reconvened for receiving in evidence certain exhibits that were not available at the original hearing. This hearing will commence on Wednesday, March 9, 1960, at 9:00 a.m. (local time) and will be held in the Texas Room of the Baker Hotel, Dallas, Tex.

Dated at Washington, D.C., February 8, 1960.

[SEAL] ROBERT W. CHRISP,
Hearing Officer.

[F.R. Doc. 60–1544; Filed, Feb. 17, 1960; 8:48 a.m.]

[Docket 5132 etc.]

REOPENED LARGE IRREGULAR AIR CARRIER INVESTIGATION

Notice of Prehearing Conference

In the matter of the qualification for supplemental air service authorization of Airline Transport Carriers, Inc., Meteor Air Transport, Inc., Miami Airline, Inc., S. S. W., Inc., and World Wide Airlines, Inc. (reopened by order E–13436, dated January 28, 1959); and of Argonaut Airways Corporation (reopened by order E–14196, dated July 8, 1959).

Notice is hereby given that a prehearing conference in the above matter is assigned to be held on March 14, 1960, at 10 a.m., in room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Ralph L. Wiser.

In order to facilitate conduct of the conference, it is requested that parties transmit to the examiner and other parties on or before March 7, 1960, (1) proposed statements of issues, (2) proposed stipulations, (3) requests for information, and (4) proposed procedural dates.

Because of the large number of persons who have participated as parties in previous stages of this proceeding and the probability that many of these persons have no interest in the present reopened phase of the proceeding, it is concluded that a procedure should be adopted for specifying the persons that will participate herein as parties. It is planned to limit participation to the above six applicants and Bureau counsel and such of those interveners who submit prior to the prehearing conference a statement requesting participation as an intervening party in this reopened phase of the proceeding. Any of the other persons who participated as applicants in the Large Irregular Air Carrier Investigation will be required to file an intervention petition for the purpose of this reopened proceeding in order to participate as a party. It is planned that dismissal of all other parties will be recommended to the Board insofar as concerns this reopened phase of the proceeding.

Dated at Washington, D.C., February 12, 1960.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 60–1545; Filed, Feb. 17, 1960; 8:48 a.m.]

[Docket 9921 etc.]

PAN AMERICAN WORLD AIRWAYS, INC., AND NATIONAL AIRLINES, INC.

Agreements Investigation; Notice of Oral Argument

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, that oral argument in the above-entitled proceeding is assigned to be held on March 9, 1960, at 10:00 a.m., e.s.t., in Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the Board.

Dated at Washington, D.C., February 12, 1960.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 60–1546; Filed, Feb. 17, 1960; 8:48 a.m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

ROBERT E. DAILEY

Appointment and Statement of Financial Interests

Report of appointment and statement of financial interests required by section 710(b)(6) of the Defense Production Act of 1950, as amended.

Report of appointment

1. Name of appointee: Robert E. Dailey.

2. Employing agency: Department of Commerce, Business and Defense Services Administration.

3. Date of appointment: January 25, 1960.

4. Title of position: Consultant-Technical Assistant to the Director.

5. Name of private employer: Stromberg-Carlson Co., Rochester, N.Y.

JOHN F. LUKENS,
Acting Director of Personnel.

JANUARY 21, 1960.

Statement of financial interests

6. Names of any corporations of which the appointee is an officer or director or within 60 days preceding appointment has been an officer or director, or in which the appointee owns or within 60 days preceding appointment has owned any stocks, bonds, or other financial interests; any partnerships in which the appointee is, or within 60 days preceding appointment was, a partner; and any other businesses in which the appointee owns, or within 60 days preceding appointment has owned, any similar interest.

All States Insurance Co.
Eastman Kodak Co., Inc.
Electronics Capital, Inc.
Ford Motor Co.
General Dynamics Corp.
Genesee Brewery Co., Inc.
Stromberg-Carlson Co.
Magnetic Amplifier, Inc.
Rochester Telephone Corp.
Sinclair Venezuelan (sold).
United Utilities, Inc.
Western Union (sold).
Bank deposits.

ROBERT E. DAILEY.

FEBRUARY 8, 1960.

[F.R. Doc. 60–1540; Filed, Feb. 17, 1960; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[No. 59–4]

OREGON

Notice of Proposed Withdrawal and Reservation of Lands; Correction

FEBRUARY 10, 1960.

Notice of proposed withdrawal and reservation of lands in connection with the application of the Acting Secretary, United States Department of Agriculture, Serial No. Oregon 06529, published in the FEDERAL REGISTER of April 16, 1959 (F.R. Doc. 59–3157; 24 F.R. 2913), is corrected to include the following described land:

WILLAMETTE MERIDIAN, OREGON

UMPQUA NATIONAL FOREST

A strip of land 330 feet on each side of the center line of the existing South Umpqua Forest Development Road No. 284 where such road traverses public land through the following section:

T. 29 S., R. 1 E.
Sec. 15.

The total acreage is corrected to read approximately 3068 acres.

RUSSELL E. GETTY,
State Supervisor.

[F.R. Doc. 60–1532; Filed, Feb. 17, 1960; 8:46 a.m.]

ALASKA

Temporary Closing of Anchorage Land Office

FEBRUARY 10, 1960.

By virtue of the authority contained in the Revised Statutes 2478 (43 U.S.C. 1201) the Anchorage Land Office, Bureau of Land Management, Anchorage, Alaska, will be closed to the public from 3:00 p.m., March 1, 1960 to 10:00 a.m., March 7, 1960, to permit the relocation of the Anchorage Land Office to a new address at the Cordova Building, 6th and Cordova, Anchorage, Alaska.

In accordance with 43 CFR 101.20, all documents presented for filing during the closed period cited above shall be deemed as simultaneously filed as of 10:00 a.m., March 7, 1960.

L. T. MAIN,
Operations Supervisor,
Anchorage.

[F.R. Doc. 60–1533; Filed, Feb. 17, 1960; 8:47 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 40–1341]

MINES DEVELOPMENT, INC.

Order Postponing Date of Hearing

In the matter of Mines Development, Inc., Source Material License No. R–174, Docket No. 40–1341.

On February 10, 1960, the Staff filed a motion for postponement of the hearing now scheduled for February 17, 1960, to a date at least one month later. As grounds for said motion, the Staff stated that investigations were being undertaken and proposals considered respecting compliance by the licensee with the rules of the Commission.

Counsel for licensee-respondent has consented to this motion.

It is ordered, That the hearing respecting the matters specified for consideration by the Commission is postponed from February 17, 1960 to March 25, 1960, in a courtroom to be assigned in the United States District Court Building, 1823 Stout Street, Denver, Colo.

Issued February 11, 1960, Germantown, Md.

SAMUEL W. JENSCH,
Presiding Officer.

[F.R. Doc. 60–1521; Filed, Feb. 17, 1960; 8:45 a.m.]

[Docket No. 50–146]

SAXTON NUCLEAR EXPERIMENTAL CORP.

Issuance of Construction Permit

Please take notice that pursuant to an order issued by the Presiding Officer on January 21, 1960, the Atomic Energy Commission has issued Construction Permit No. CPPR–6 authorizing Saxton Nuclear Experimental Corporation to construct a 20 megawatt (thermal) light water-moderated and -cooled, pressurized water research and development reactor on its site situated approximately twenty miles southeast of Altoona, Pa.

A public hearing in the matter of the issuance of the permit was held on December 15, 1959. Notice of the hearing, setting forth the proposed construction permit, was published in the FEDERAL REGISTER on November 13, 1959, 24 F.R. 9244.

Dated at Germantown, Md., this 11th day of February 1960.

For the Atomic Energy Commission.

H. L. PRICE,
Director, Division of Licensing and Regulation.

[F.R. Doc. 60–1522; Filed, Feb. 17, 1960; 8:45 a.m.]

OFFICE OF CIVIL AND DEFENSE MOBILIZATION

LEROY LUTES

Appointee's Statement of Changes in Business Interests

The following statement lists the names of concerns required by subsection 710(b)(6) of the Defense Production Act of 1950, as amended.

Sold

Standard Oil of New Jersey.
South American Gold and Platinum.
Tri-Continental Warrants.
Texas National Petroleum.
St. Louis-San Francisco Railway.
Sterling Drug Company.

Holding

Transcontinental Pipe Line.
Gray Manufacturing Company.
Reese Soundcraft Corporation.
Fairbanks-Whitney Corporation.
Atlas Corporation Warrants.

This amends statement published August 26, 1959 (24 F.R. 6921).

Dated: February 5, 1960.

Lt. Gen. LEROY LUTES (USA Ret.).

[F.R. Doc. 60–1523; Filed, Feb. 17, 1960; 8:45 a.m.]

E. D. REEVES

Appointee's Statement of Changes in Business Interests

The following statement lists the names of concerns required by subsection 710(b)(6) of the Defense Production Act of 1950, as amended.

Business affiliations of E. D. Reeves:

Additions

Humble Oil & Refining Company—Vice President and Director, P.O. Box 2180, Houston 1, Tex.

Stock owned in Standard Oil Company (New Jersey).

Deletions

Esso Standard Oil Company.
Stanco Incorporated.

This amends statement published August 13, 1959 (24 F.R. 6602).

Dated: February 1, 1960.

E. D. REEVES.

[F.R. Doc. 60–1524; Filed, Feb. 17, 1960; 8:45 a.m.]

ERNEST A. TUPPER

Appointee's Statement of Changes in Business Interests

The following statement lists the names of concerns required by subsection 710(b)(6) of the Defense Production Act of 1950, as amended.

American Can Company.

This amends statement published August 13, 1959 (24 F.R. 6602).

Dated: February 13, 1960.

ERNEST A. TUPPER.

[F.R. Doc. 60–1525; Filed, Feb. 17, 1960; 8:45 a.m.]

WILLIAM WEBSTER

Appointee's Statement of Changes in Business Interests

The following statement lists the names of concerns required by subsection 710(b)(6) of the Defense Production Act of 1950, as amended.

Add

F. C. Huyck & Sons, Director.
Gaither Associates.
Home-Stake Production Co.
Waverly Growers Cooperative.
N.Y. State Power Authority.
Commonwealth of Puerto Rico.
General Electronic Laboratories.

Delete

Vice President, Atomic Industrial Forum.
Milliken Lake Uranium Mines.
Missouri Pacific RR.
Midwestern Instruments Co.
Radiant Products.
Federal National Mortgage Assoc.
Fireside Permanent Building Assoc.

This amends statement published August 13, 1959 (24 F.R. 6603).

Dated: February 1, 1960.

WILLIAM WEBSTER.

[F.R. Doc. 60–1526; Filed, Feb. 17, 1960; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–4015]

CONSOLIDATED DEVELOPMENT CORP.

Order Summarily Suspending Trading

FEBRUARY 12, 1960.

In the matter of trading on the American Stock Exchange in the common stock, par value 20 cents per share of Consolidated Development Corporation (formerly known as Consolidated Cuban Petroleum Corporation).

The common stock, par value of 20 cents per share of Consolidated Development Corporation (formerly known as Consolidated Cuban Petroleum Corporation), being listed and registered on the American Stock Exchange, a national securities exchange; and

The Commission being of the opinion that the public interest requires the sum-

mary suspension of trading in such security on such Exchange and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion further that such suspension is necessary in order to prevent fraudulent, deceptive or manipulative acts or practices, with the result that it will be unlawful under section 15(c)(2) of the Securities Exchange Act of 1934 and the Commission's Rule 15c2-2 thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of such security, otherwise than on a national securities exchange;

It is ordered, Pursuant to Section 19 (a)(4) of the Securities Exchange Act of 1934 that trading in said security on the American Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive or manipulative acts or practices, this order to be effective for a period of ten (10) days, effective February 12 to February 21, 1960, inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 60-1536; Filed, Feb. 17, 1960; 8:47 a.m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority 53 (Rev. 1)]

CHIEF, LICENSING AND LOANS DIVISION

Delegation Relating to Investment Program Functions of the Investment Division

I. Pursuant to the authority delegated to the Deputy Administrator, Investment Division by the Administrator, by Delegation of Authority No. 50 (Revision 2) (24 F.R. 7171), there is hereby redelegated to the Chief, Licensing and Loans Division, the authority:

A. *Specific.* 1. To approve disbursement of loans under section 302, of the Small Business Investment Act of 1958.

2. To approve sick and annual leave for the employees under his supervision.

II. The authority delegated herein may not be redelegated.

III. All authority delegated herein may be exercised by any employee designated as Acting Chief, Licensing and Loans Division.

IV. All previous authority delegated by the Director, Investment Division, is hereby rescinded without prejudice to actions taken under all such delegations of authority prior to the date hereof.

DUNCAN H. READ,
Deputy Administrator,
Investment Division.

FEBRUARY 1, 1960.

[F.R. Doc. 60-1537; Filed, Feb. 17, 1960; 8:47 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

LEARNER EMPLOYMENT CERTIFICATES

Issuance to Various Industries

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulations on employment of learners (29 CFR Part 522), and Administrative Order No. 524 (24 F.R. 9274), the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. The effective and expiration dates, occupations, wage rates, number or proportion of learners, learning periods, and the principal product manufactured by the employer for certificates issued under general learner regulations (§§ 522.1 to 522.11) are as indicated below. Conditions provided in certificates issued under special industry regulations are as established in these regulations.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.20 to 522.24, as amended).

The following learner certificates were issued authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

Michael Berkowitz Co., Inc., R.D. No. 2, Waynesburg, Pa.; effective 2-10-60 to 2-9-61 (ladies' pajamas).

City Shirt Co., 19-21 West Vine Street, Mahanoy City, Pa.; effective 2-1-60 to 1-31-61 (men's sport, uniform, and dress shirts).

Duluth Sportswear Co., Duluth, Ga.; effective 1-29-60 to 1-28-61 (shirts).

Eastwill Sportswear Co., Inc., Greenwood, S.C.; effective 2-2-60 to 2-1-61 (men's sport shirts).

Elder Manufacturing Co., Bloomfield, Mo.; effective 2-5-60 to 2-4-61 (boys' slacks, jackets).

Ely and Walker Factory, Paragould, Ark.; effective 2-5-60 to 2-4-61 (boys' sport shirts).

Flushing Shirt Manufacturing Co., Grantsville, Md.; effective 1-25-60 to 1-24-61 (men's uniform shirts).

J. Freezer and Son, Inc., Rural Retreat, Va.; effective 1-27-60 to 1-26-61 (ladies', men's and boys' shirts).

Gateway Manufacturing Co., 215 West Church Street, Masontown, Pa.; effective 2-11-60 to 2-10-61 (ladies' blouses).

The H. W. Gossard Co., Ishpeming, Mich.; effective 2-9-60 to 2-8-61 (ladies' foundation garments).

Hebron Pants Factory, Hebron, Md.; effective 2-4-60 to 2-3-61 (men's and boys' work pants).

Kinston Shirt Co., Kinston, N.C.; effective 1-27-60 to 1-26-61 (men's shirts).

Luzerne Outerwear Manufacturing Corp., 87-93 North Canal Street, Shickshinny, Pa.; effective 1-30-60 to 1-29-61 (men's and boys' jackets).

Macon Manufacturing Corp., Tuskegee, Ala.; effective 1-26-60 to 1-25-61 (ladies' blouses).

Mt. Airy Pants Factory, Mt. Airy, Md.; effective 1-23-60 to 1-22-61 (men's and boys' work pants).

Powellville Pants Factory, Powellville, Md.; effective 1-27-60 to 1-26-61 (men's and boys' work pants).

Publix Shirt Corp., Hazleton, Pa.; effective 1-30-60 to 1-29-61 (men's and boys' dress and sport shirts).

Regent Co., Inc., 27-37 East Ferdinand Street, Manheim, Pa.; effective 1-25-60 to 1-24-61 (children's cotton wash garments).

Regent Co., Inc., Grant and High Streets, Manheim, Pa.; effective 1-25-60 to 1-24-61 (boys' shirts).

Reliance Manufacturing Co., Dixie Factory, 100 Ferguson Street, Hattiesburg, Miss.; effective 2-8-60 to 2-7-61 (men's cotton work shirts; men's and boys' pants).

The S and S Clothing Co., 44-48 Lehigh Street, Wilkes-Barre, Pa.; effective 2-1-60 to 1-31-61 (men's and boys' pants).

Savada Brothers, Inc., 115-121 Mulberry Street, Millville, N.J.; effective 1-30-60 to 1-29-61 (boys' sport shirts).

Seamprufe, Inc., McAlester, Okla.; effective 1-28-60 to 1-27-61; workers engaged in the production of ladies' woven underwear.

Solomon Brothers Co., Thomasville, Ala.; effective 1-26-60 to 1-25-61 (men's sport shirts).

H. B. Spoont Co., 12-18 East Coal Street, Shenandoah, Pa.; effective 1-30-60 to 1-29-61 (ladies' car coats, shorts, pedal-pushers).

Soperton Manufacturing Co., Soperton, Ga.; effective 1-29-60 to 1-28-61 (men's sport shirts).

United Pants Co., Inc., 222-228 Beade Street, Plymouth, Pa.; effective 2-1-60 to 1-31-61 (boys' pants; boys' and men's jackets).

United Pants Co., Inc., Shoemaker Street, Swoyersville, Pa.; effective 2-1-60 to 1-31-61 (men's and boys' pants and jackets).

The Van Wert Manufacturing Co., Main and Market Streets, Van Wert, Ohio; effective 2-4-60 to 2-3-61 (men's and boys' work and dress pants, utility jackets, and work shirts).

The following learner certificates were issued for normal labor turnover purposes. The effective and expiration dates and the number of learners authorized are indicated.

Aalfs Manufacturing Co., Le Mars, Iowa; effective 2-13-60 to 2-12-61; 10 learners (men's and boys' dungarees).

Alleghany Shirt Co., Inc., Huntland, Tenn.; effective 1-29-60 to 1-28-61; 10 learners (men's sport shirts).

Belfast Manufacturing Co., Inc., 64 Anderson Street, Belfast, Maine; effective 2-1-60 to 1-31-61; 10 learners (men's trousers).

Dixie Lou Frocks, Inc., 120 South Water Street, Henderson, Ky.; effective 1-30-60 to 1-29-61; 10 learners (ladies' wash dresses).

Fuller Uniform Co., Kaufman, Tex.; effective 1-26-60 to 1-25-61; five learners (women's and men's woven uniforms).

The H. W. Gossard Co., Corner Pine and Jasper Streets, Gwinn, Mich.; effective 2-9-60 to 2-8-61; 10 learners (ladies' foundation garments).

Muscatine Manufacturing Corp., 416 East Third Street, Muscatine, Iowa; effective 1-27-60 to 1-26-61; 10 learners (overalls and dungarees).

Regent Co., Inc., Rexmont, Pa.; effective 1-25-60 to 1-24-61; five learners (boys' pajamas).

Rosebud Manufacturing Co., Inc., 119-27 West Railroad Avenue, Vidalia, Ga.; effective 2-1-60 to 1-31-61; 10 learners (women's lingerie).

Selro Manufacturing Co., Hurlock, Md.; effective 2-7-60 to 2-6-61; 10 learners (ladies' blouses).

Sol Enterprises, Inc., East Raleigh Avenue, Siler City, N.C.; effective 1-28-60 to 1-27-61; 10 learners (children's and girls' shorts, slacks, Jamaicas).

The following learner certificates were issued for plant expansion purposes. The effective and expiration dates and

the number of learners authorized are indicated.

Bellaire Garment Co., Bellaire, Ohio; effective 1-30-60 to 7-29-60; 25 learners. Learners may not be engaged at special minimum wage rates in the production of separate skirts and/or lined jackets (women's dresses, sportswear).

Daisy Manufacturing Co., Vidalia, Ga.; effective 1-29-60 to 7-28-60; 35 learners (women's lingerie).

H. W. Gossard Co., 105 North Franklin Street, Bicknell, Ind.; effective 1-27-60 to 7-26-60; 10 learners (women's foundation garments).

H. D. Lee of Virginia, Inc., Broadway, Va.; effective 1-29-60 to 7-28-60; 75 learners (work pants).

Rosebud Manufacturing Co., Inc., 119-27 West Railroad Avenue, Vidalia, Ga.; effective 2-1-60 to 7-31-60; 15 learners (women's lingerie).

Wildwood Clothing Co., Inc., 112 East Schellenger Avenue, Wildwood, N.J.; effective 1-29-60 to 7-28-60; 10 learners (ladies' shorts, slacks, pedal pushers, etc.).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.40 to 522.44, as amended).

The following learner certificates were issued for plant expansion purposes. The effective and expiration dates and the number of learners authorized are indicated.

Harris Marshall Hosiery Mills, Inc., Galax, Va.; effective 1-25-60 to 7-24-60; five learners (seamless).

Prim Hosiery Mills, Chester, Ill.; effective 1-27-60 to 7-26-60; 15 learners (women's full-fashioned and seamfree hosiery (nylon)).

Princeton Hosiery Mills, Inc., Princeton, Ky.; effective 1-25-60 to 7-24-60; 75 learners (seamless).

The following learner certificates were issued authorizing the employment of five percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

Princeton Hosiery Mills, Inc., Princeton, Ky.; effective 1-25-60 to 1-24-61 (seamless).

Thornton Knitting Co., Inc., Denton, N.C.; effective 1-26-60 to 1-25-61 (seamless).

Vance Hosiery Co., Burlington Industries, Inc., Kernersville, N.C.; effective 1-29-60 to 1-28-61 (seamless).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.30 to 522.35, as amended).

Delta Undies, Inc., Webb, Miss.; effective 1-30-60 to 1-29-61; five learners for normal labor turnover purposes (ladies' knit underwear).

S and M Manufacturing Co., Greenville Highway, Easley, S.C.; effective 1-30-60 to 7-29-60; 15 learners for plant expansion purposes engaged in the manufacture of infants' pajamas and play togs only.

Seamprufe, Inc., McAlester, Okla.; effective 1-28-60 to 1-27-61; 5 percent of the total number of factory production workers for normal labor turnover purposes engaged in the production of ladies' knitted underwear.

Shoe Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.50 to 522.55, as amended).

Farmington Shoe Co., Division of Breed Sandal Inc., Farmington, Maine; effective 1-31-60 to 1-30-61; 10 percent of the total number of factory production workers for normal labor turnover purposes (women's novelty shoes).

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.11, as amended).

The following learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods, and the number or proportion of learners authorized to be employed, are as indicated.

Ponce Narrow Fabric Mills Inc., Arroyo, P.R.; effective 12-17-59 to 2-26-60; 13 learners for normal labor turnover purposes in the occupations of weaving, quilling and skeining, twisting and harnessing, blocking and warping, each for a learning period of 240 hours at the rate of 56 cents an hour (replacement certificate) (weaving of narrow fabrics).

Rizotex, Inc., Cayey, P.R.; effective 12-17-59 to 3-18-60; five learners for normal labor turnover purposes in the occupations of winders and crimping, twisters, each for a learning period of 240 hours at the rate of 56 cents an hour (replacement certificate) (yarn manufacturing).

Weststone Knitting Mills Inc., and/or Northridge Knitting Mills, Inc., San German, P.R.; effective 11-24-59 to 11-23-60; 25 learners for normal labor turnover purposes in the occupations of: (1) knitting, looping, topping, each for a learning period of 480 hours at the rates of 72 cents an hour for the first 240 hours and 84 cents an hour for the remaining 240 hours; (2) machine stitching (seaming and cardigan sewing), pressing, each for a learning period of 320 hours at the rates of 72 cents an hour for the first 160 hours and 84 cents an hour for the remaining 160 hours (sweaters).

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9.

Signed at Washington, D.C., this 4th day of February 1960.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 60-1535; Filed, Feb. 17, 1960; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

FEBRUARY 15, 1960.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 36013: *Automobiles—From Michigan to southern territory.* Filed by H. R. Hinsch, Agent (CTR No. 2427), for interested rail carriers. Rates on automobiles, passenger, new, set up, in carloads from Flint and Willow Run, Mich., to points in southern territory.

Grounds for relief: Short-line distance formula, and grouping.

Tariff: Traffic Executive Association-Eastern Railroads tariff I.C.C. C-112.

FSA No. 36014: *Substituted service—PRR for Midwest Coast Transport, Inc.* Filed by A. R. Fowler, Agent (No. 10), for interested carriers. Rates on property loaded in highway trailers and transported on railroad flat cars between Chicago, Ill., on the one hand, and Cleveland, Ohio, Harrisburg, Philadelphia and Pittsburgh, Pa., and Kearny, N.J., on the other.

Grounds for relief: Motor-truck competition.

Tariff: Association Motor Carriers Tariff Bureau tariff MF-I.C.C. A-86.

FSA No. 36015: *Asphalt from southwestern points to Newtown, Ohio.* Filed by Southwestern Freight Bureau, Agent (No. B-7739), for interested rail carriers. Rates on asphalt (asphaltum), in tank-car loads, as described in the application from specified points in Arkansas, Kansas, Louisiana, Missouri, Oklahoma and Texas to Newtown, Ohio.

Grounds for relief: Destination truck competition.

Tariff: Supplement 54 to Southwestern Freight Bureau tariff I.C.C. 4165.

By the Commission.

[SEAL] HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 60-1541; Filed, Feb. 17, 1960; 8:47 a.m.]

TARIFF COMMISSION

[332-38]

SHRIMP

Notice of Investigation and Date of Hearing

In response to a resolution of the Committee on Ways and Means of the House of Representatives, adopted February 9, 1960, the United States Tariff Commission has instituted an investigation with regard to shrimp under the authority of section 332 of the Tariff Act of 1930 (19 U.S.C. 1332).

The resolution directs the Commission, pursuant to section 332 of the Tariff Act of 1930, to make an investigation to determine whether shrimp, as a result of the existing customs treatment thereof as provided for by paragraph 1761 of such Act, are being imported into the United States in such increased quantities, either actual or relative to domestic production, as to cause or threaten serious injury to the domestic shrimp industry, and to report the results of such investigation to the Committee on Ways

and Means of the House of Representatives not later than three months after the date of the adoption of this resolution. If such determination is in the affirmative the Commission shall specify in its report the rate or rates of duty (not in excess of 50 per centum ad valorem) which it determines to be necessary to remedy or prevent such serious injury. In the course of its investigation the Commission shall hold a hearing at which interested parties shall be given reasonable opportunity to be present and be heard; and in making its determinations under this resolution the Commission shall take into consideration the factors set forth in section 7(b) of the Trade Agreements Extension Act of 1951.

Hearing. A public hearing, at which interested parties will be given opportunity to be present and to be heard, will be held in connection with the foregoing investigation in the Hearing Room of the Tariff Commission, Eighth and E Streets NW., Washington, D.C., beginning at 10 a.m., e.s.t., on March 16, 1960.

Request to appear. Interested parties desiring to appear and to be heard at the hearing should notify the Secretary of the Tariff Commission, in writing, at its offices in Washington, D.C., at least three days in advance of the opening date of the hearing.

Issued: February 15, 1960.

By order of the Commission:

[SEAL] DONN N. BENT,
Secretary.

[F.R. Doc. 60-1538; Filed, Feb. 17, 1960; 8:47 a.m.]

CUMULATIVE CODIFICATION GUIDE—FEBRUARY

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